

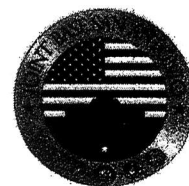
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**DEPARTMENT OF THE AIR FORCE  
502D AIR BASE WING  
JOINT BASE SAN ANTONIO**



13 August 2020

Brigadier General Caroline Miller  
Commander  
502d Air Base Wing  
2080 Wilson Way  
JBSA Fort Sam Houston TX 78234

The Honorable Tom Craddick  
Chairman  
Texas House Committee on Land and Resource Management  
PO Box 2910  
Austin TX 78768

Dear Chairman Craddick

As the Commander of the 502d Air Base Wing and Joint Base San Antonio, as well as the Chairman of the Texas Commanders Council, I am reaching out to provide you with information related to the Committee on Land and Resource Management's July 2020 Request for Information, Charge 1, regarding annexation. I also would like to take this opportunity to stress the importance of protecting military installations from the types of development that threaten military missions across the state.

It is Department of Defense (DoD) and Air Force policy to remain neutral on issues related to annexation when such efforts do not directly involve our property. Therefore, I will not comment directly on forced annexation or HB 347; however, I will provide information about how defense communities can use land use controls to protect installations across Texas.

Texas is home to 15 military installations and headquarters several major commands across the DoD. All service branches, including the U.S. Coast Guard, have a footprint in Texas. In fact, according to the Texas Comptroller of Public Accounts, the total economic output of military installations for 2019 was approximately \$123 billion, with Joint Base San Antonio contributing \$41.3 billion, Fort Hood contributing \$29.8 billion, and Fort Bliss contributing \$25.6 billion.

Generally, in fast growing urban areas near military installations, the DoD, by necessity, must rely on a defense community's planning, zoning, and land use controls to help ensure land uses around installations do not adversely affect military missions conducted therefrom. Land use controls are not effective unless they include the ability for a defense community to impose fees and fines which create an enforcement mechanism to ensure compliance with local ordinances.

Texas military installations have faced numerous challenges with incompatible land use and development that have impacted mission sustainment and training capabilities. Incompatible land use can impact the long-term viability of certain missions. For example, wind energy development in Texas has been a major source of concern for military aviation missions. Similarly, incompatible residential or commercial construction in a municipality's extraterritorial jurisdiction can impact the



ability of military installations to perform their duties critical to national defense, such as nighttime training. Issues related to lighting, noise, environmental controls, utility infrastructure, and traffic congestion, among others, are all impacted by the various aspects of land use ordinances around Texas military bases.

The continued ability for defense communities to regulate and enforce land use ordinances is a vital tool to protect and sustain military missions in Texas.

Thank you for your time and consideration in this matter.

Sincerely

MILLER.CAROLIN  
E.M.1155078711

Digitally signed by  
MILLER.CAROLIN.E.M.1155078711  
Date: 2020.08.13 17:55:18 -05'00'  
Caroline Miller, Brigadier General, USAF  
Commander, 502d Air Base Wing



# City of Austin

P.O. Box 1088, Austin, TX 78767-1088

August 14, 2020

The Honorable Tom Craddick  
Chairman, House Committee on Land and Resource Management  
Texas House of Representatives  
P.O. Box 2910 Austin, TX 78768-2910  
Via E-Mail: Tom.Craddick@House.Texas.Gov

## **Re: City of Austin Comments on Interim Charge 1**

Chair Craddick and Members of the House Committee on Land & Resource Management:

The City of Austin appreciates the opportunity to submit written comments regarding the Committee's Interim Charge 1 and extraterritorial jurisdictions.

The City of Austin's extraterritorial jurisdiction currently extends into 4 counties, including Williamson, Travis, Hays, and Bastrop. Health and safety regulations in the City's ETJ benefit communities throughout the region, inside and outside of the city limits.

Watershed boundaries cross jurisdictional boundaries, carrying floodwaters and water pollution into and out of extraterritorial areas. Austin's water quality regulations are applied equally in both our full purpose and extraterritorial jurisdictions, equally benefitting tax paying residents in our full purpose and residents who do not pay municipal taxes in our extraterritorial jurisdiction. These regulations were adopted in processes open to all of the public, consistent with the Local Government Code, and in collaboration with Travis County, to promote the health, safety and orderly development of the community. Cooperating with the County maximizes the efficient use of resources of both governmental entities to ensure orderly development and effective urban planning without redundant layers of government.

The City of Austin provides specific regulations to maintain the high quality of our fragile regional water resources that are particularly sensitive to pollution, including the Barton Springs Segment of the Edwards Aquifer and areas that feed the Highland Lakes and

Austin's drinking water supply. These activities include responding to water pollution spills in Austin's extraterritorial jurisdiction, as specifically required by Austin's stormwater permit from the Texas Commission on Environmental Quality, as well as checking that voids encountered during construction are properly mitigated to ensure that roads and houses do not collapse into sinkholes in the future.

The economy and environment of central Texas depends upon the preservation, conservation, and management of dependable supplies of clean water. The City of Austin's water quality regulations protect public drinking water supplies, keep waters clean and flowing for recreation and the maintenance of property values, and help conserve the natural environment consistent with the public duties established by the Texas Constitution Article 16 Section 59.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to be 'CH' or 'CHerrington', written in a cursive style.

Christopher Herrington, P.E.  
Environmental Officer  
Watershed Protection Department  
City of Austin

P.O. Box 1088, Attention Watershed Protection  
Austin, TX 78767  
512-974-2840 office  
[Chris.Herrington@austintexas.gov](mailto:Chris.Herrington@austintexas.gov)



City Council

# CITY OF CONROE

Est. 1904

August 17, 2020

The Honorable Tom Craddick  
Chairman, House Committee on Land and Resource Management  
Texas House of Representatives  
P.O. Box 2910  
Austin, TX 78768-2910

**Via E-Mail: [Tom.Craddick@House.Texas.Gov](mailto:Tom.Craddick@House.Texas.Gov)**

**Re: *Annexation Interim Charge No. 1: Determine if there is a need for further annexation legislation in Texas. Study how implementation of voter-approved annexation impacts the need for extraterritorial jurisdiction.***

Dear Chairman Craddick:

The City of Conroe appreciates the opportunity to comment on our experiences following the enactment of HB 347 and the continuing usefulness of the concept of extraterritorial jurisdiction (ETJ).

Conroe has always prided itself on being business friendly and we have a long track history of working with the development community to grow the community through mutually beneficial partnerships. The strategic extension of our water and sewer infrastructure has been a key component of our success. Conroe has provided regional water and wastewater treatment capacity to aid in the development of our ETJ and in most cases has provided this capacity without capital recovery charges as an incentive to annexation. Developers have found that by partnering with Conroe they can reduce the delivered cost of new lots so as to make voluntary annexation a win/win for both the project and the community.

Conroe has pioneered the use of in-city municipal utility districts to make public financing tools available to developers of newly annexed territory, an arrangement that also allows the City to assume the cost of utility system operations reducing district overhead and minimizing the tax burden within the district.

Conroe has also very effectively used strategic partnership agreements with ETJ MUDs to facilitate growth while planning for future annexation on mutually agreeable terms.

We believe that as long as Conroe has the ability to partner with developers we will be able to grow the community but the ETJ remains a critical component of this process. The ETJ defines a geographic area where we can plan the extension of water and sewer infrastructure and preposition our assets to serve new development. Abolition of the ETJ would adversely affect our ability to plan for the extension of our infrastructure in a logical fashion.

Conroe accepts that the era of forced annexation is ended but we hope the era of orderly growth through planning and partnership will be allowed to continue. We appreciate the foresight of the Legislature in preserving planning tools like industrial district, strategic partnership agreements and of course ETJ and we hope that no major changes to HB 347 will be implemented until there has been a longer period of time to evaluate its impact on Texas.

Sincerely,

Duke Coon  
Mayor Pro Tem of Conroe



# CITY OF DRIPPING SPRINGS

PHYSICAL: 511 Mercer Street • MAILING: PO Box 384 • Dripping Springs, TX 78620

512.858.4725 • [www.cityofdrippingsprings.com](http://www.cityofdrippingsprings.com)

August 14, 2020

The Honorable Tom Craddick  
Chairman, House Committee on Land and Resource Management  
Texas House of Representatives  
P.O. Box 2910  
Austin, TX 78768-2910

Via E-Mail: [Tom.Craddick@House.Texas.Gov](mailto:Tom.Craddick@House.Texas.Gov)

**Re:** City of Dripping Springs Comments on Annexation Interim Charge No. 1:  
Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure intended legislative outcome of all legislation, including HB 347, which eliminates the distinction between Tier 1 and Tier 2 counties and municipalities so that all cities are prohibited from using forced annexation. Determine if there is a need for further annexation legislation in Texas. Study how implementation of voter-approved annexation impacts the need for extraterritorial jurisdiction.

Dear Chairman Craddick,

Thank you for giving me the opportunity to provide comments to the House Committee on Land and Resource Management. The City of Dripping Springs is a general law city who has annexed solely upon the application of property owners and voters. Also, we have had many individuals request to be in our extraterritorial jurisdiction. We have worked with these property owners to ensure that they receive the city services they want through the annexation and request for inclusion in the extraterritorial jurisdiction process.

## **Why Our City Values Extraterritorial Jurisdiction**

The City of Dripping Springs believes that Extraterritorial Jurisdiction (ETJ) is an important tool for ensuring safe and quality development and infrastructure. Our regulation in the ETJ is limited, but important.

### **Water Code 26.177 – Pollution Control and abatement programs:**

The City takes its duty to protect the waterways at and near Dripping Springs very seriously, including the Edwards Aquifer, because the residents of our City and ETJ have made it clear that this issue is of primary importance to them. The ability to regulate water quality in the ETJ is essential to protecting local ecological systems, preserving land values and the natural beauty and aesthetics of the community, and providing



# CITY OF DRIPPING SPRINGS

PHYSICAL: 511 Mercer Street • MAILING: PO Box 384 • Dripping Springs, TX 78620  
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*Gateway to the Hill Country*

reasonable standards for development design to prevent erosion, drainage issues, and pollutants spreading across property lines and through waterways. Drainage and pollution issues that flow through multiple lots lower property values and would hinder developers' access to quality water and land. For example, our recent wastewater permit application received over 1000 comments, many from our ETJ residents and other Hays County residents. The City of Dripping Springs respects the needs of our ETJ residents and showed this by improving our wastewater permit in response to their input.

## **Local Government Code 212.003(a) – Subdivision Regulations:**

Our platting and site plan requirements in the ETJ are designed to provide an efficient process for the City to ensure that adequate infrastructure is provided for the residents of the ETJ who could, upon request, become residents of our City. Subdivision regulation in the ETJ also allows the City to plan for future wastewater and water infrastructure, while also ensuring that roads that could someday become City streets are being built in a safe manner. As part of our program, we require that at least two of our seats on our Planning and Zoning Commission be residents of the ETJ and allow up to five seats on the Commission to be chosen from residents of the ETJ to give them representation in matters in our City Limits and the ETJ.

## **Local Government Code 216.003 – Sign Regulation:**

The City of Dripping Springs, Gateway to the Hill Country, is a special place with a commitment to consistent regulation of sign regulation, including billboards, within the City Limits and ETJ. We regulate signs the same in both places in order to maintain the character that draws both residents and visitors to our City.

Thank you for your attention. We ask that the Legislature maintains extraterritorial jurisdiction to ensure quality development throughout the state driven by the residents of both the city limits and the extraterritorial jurisdiction.

Sincerely,

Bill Foulds, Jr.  
Mayor  
City of Dripping Springs

# CITY OF DRIPPING SPRINGS

Physical: 511 Mercer Street • Mailing: PO Box 384 • Dripping Springs, TX 78620  
512.858.4725 • [www.cityofdrippingsprings.com](http://www.cityofdrippingsprings.com)

*Gateway to the Hill Country*





August 14, 2020

Chairman TomCraddick  
House Committee on Land & Resource Management  
Submitted Via Email

Honorable Chairman Craddick & Members of the Land and Resource Management Committee:

It is my pleasure to answer your first question in your RFI concerning annexation.

In 2014, our City Council had already been on a small annexation campaign. We intensified it and it effectively concluded before the first major state law changes took effect in 2017. It was an awful process. Landowners came to public hearings to oppose annexation, and the City moved forward with needed annexations to manage growth in nearby county lands.

Since that time, we have studied developments and development pattern alternatives extensively, trying to ensure that we do not simply flare up and burn out as just another suburb in the DFW Metroplex as the new growth wave crests over us. What we have learned is that the type of development, its layout, density, and its tax value, are all critical. This is especially important as it relates to the ratio of private investment value created vs. the value of the public assets also created simultaneously, given to the city to maintain and replace from that moment on. What we are finding is that our plans need alteration and intensification if our city is to survive economically. With the third lowest tax rate in the Metroplex, according to a survey by the Dallas Regional Chamber of Commerce, Fate is forward looking and conservative, but with an extremely long-range perspective. We affectionately refer to this approach as "what would great grandpa do." What follows are graphics and charts from the best of what we've learned on how cities work. In short, go dense, build value, in grids, go vertical, minimize public infrastructure used, plan cities around people not cars, preserve rural places. Rural farms and ranches, and dense walkable urban areas are net revenue positive, but suburban development, which represents 95% of the Metroplex land area, is net revenue negative.

How does this impact annexation? It means that we have to be careful to not annex and build simply suburban development, but according to our cost modelling, it is far worse to allow unincorporated suburban development, or even larger lot development like 1 or 5 acre tracks.

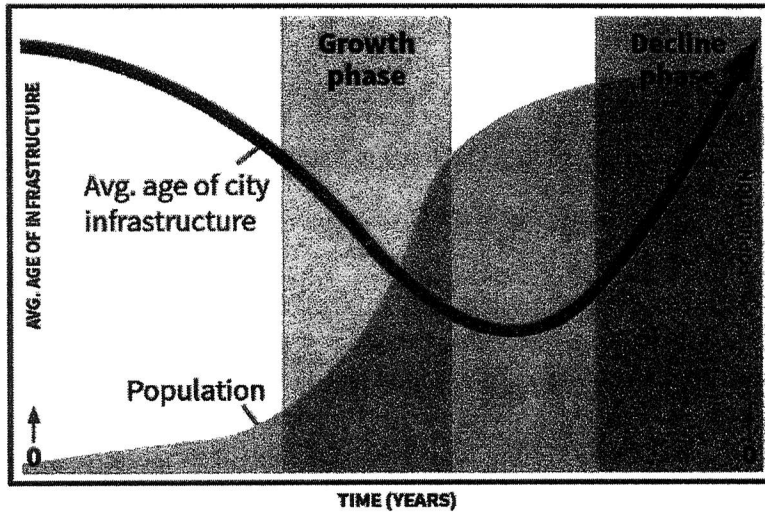
Please feel free to call on me should you need more information. My email address is [mkovacs@cityoffate.com](mailto:mkovacs@cityoffate.com), and phone number is 214-771-6118.

Sincerely,

Michael Kovacs  
City Manager

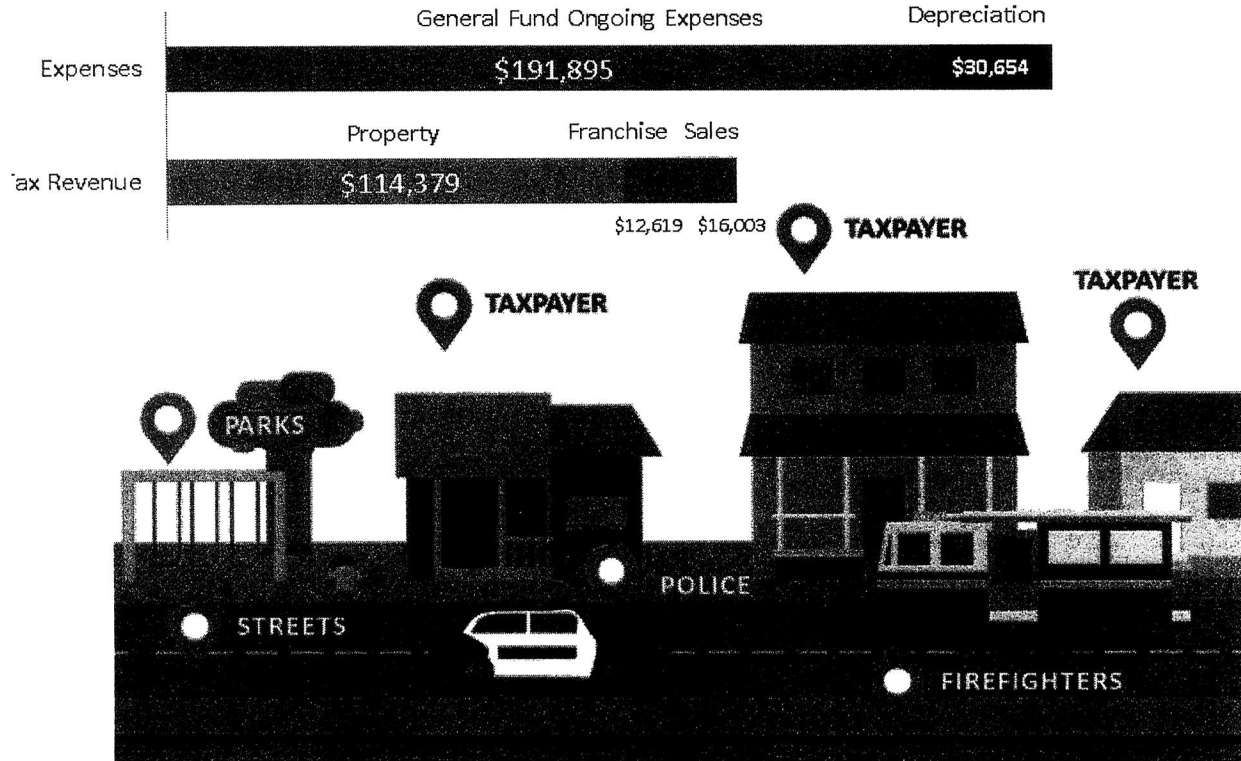
# Balancing Growth and Infrastructure Costs

Understanding long-term impacts of rate and pattern of growth

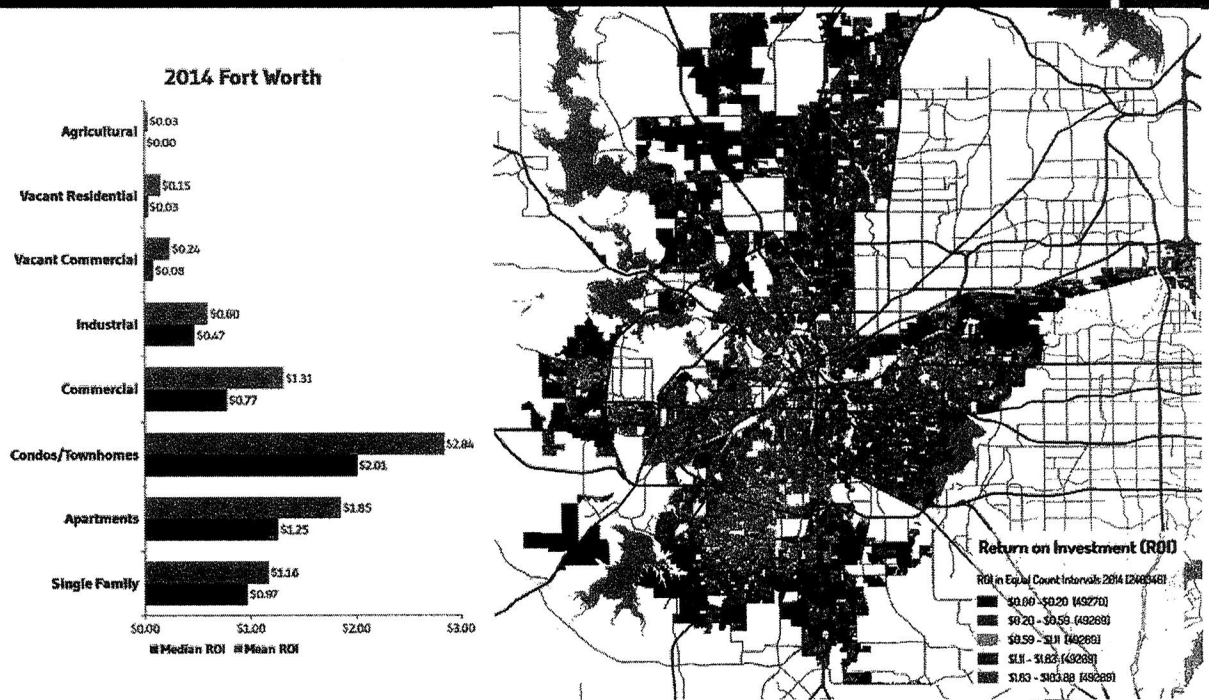


Slide courtesy of: **VERDUNITY**

## Sample Neighborhood in Fate



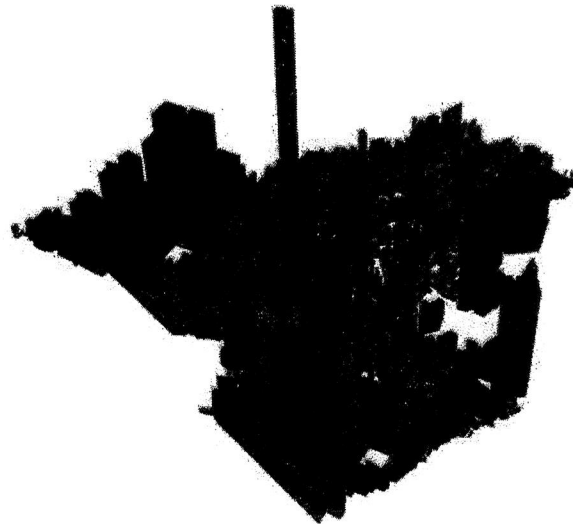
# Development Pattern ROI

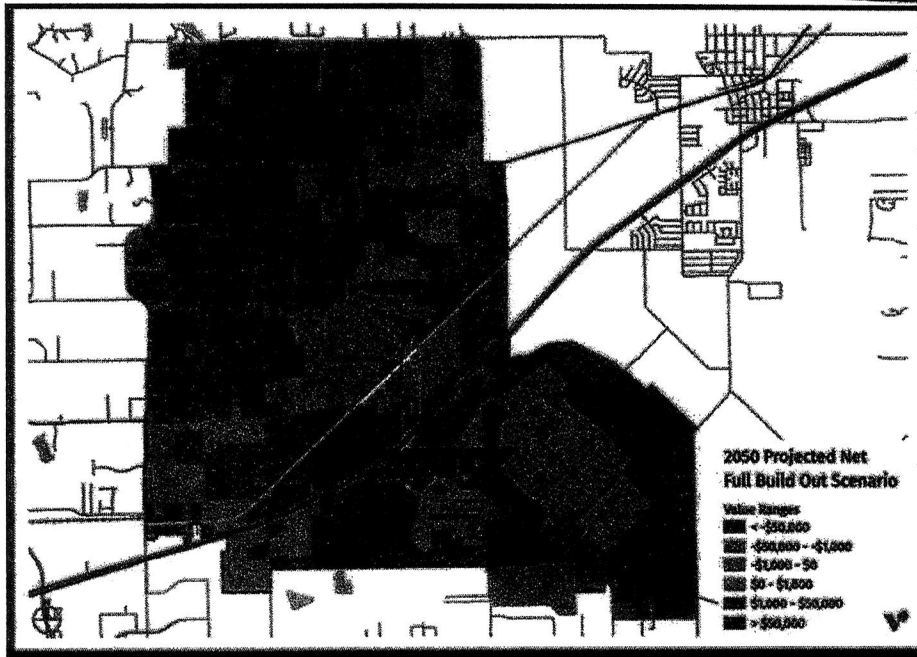


Courtesy of: Felix Landry, Urbex Solutions

**VERDUNITY**  
a better future, by design

## Lafayette, LA – Net Revenue to City by Acre





Taxable Value: \$747,552

Tax Received: \$ 2,176

Cost of Repair: \$ 36,484

Life Expectancy: 5 to 7 yrs

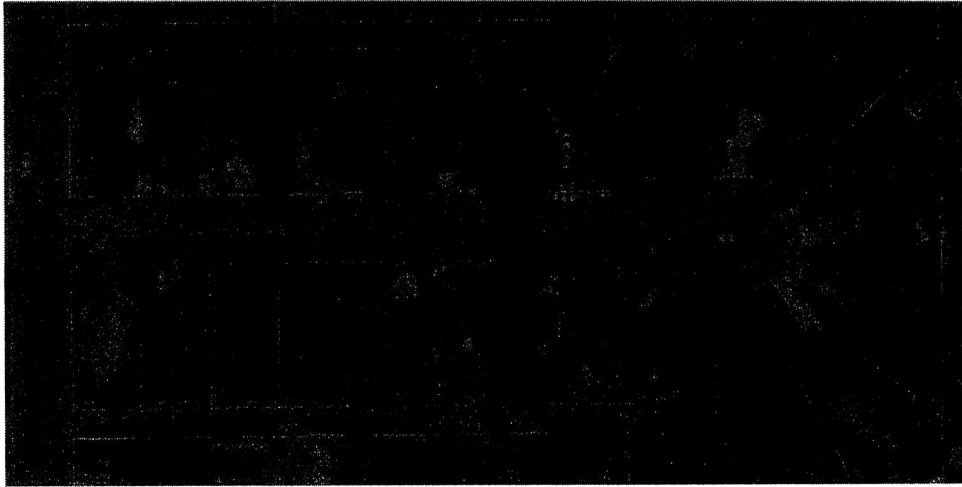
Based on the current taxable value and the current tax rate, it would take 16.77 years for the properties to repay the repairs – that is assuming all of the future tax revenues are dedicated to the replacement costs and no other city services are provided during that same period.



## Revenue/Infrastructure Cost Gap (Brownsville, TX example)

Taxable Value: \$953,441  
Tax Revenue: \$ 6,114  
Cost of Repair: \$ 206,876  
Life Expectancy: 40 years

Based on the current taxable value and the current tax rate, it would take 33.84 years for the properties to repay the repairs – that is assuming all of the future tax revenues are dedicated to the replacement costs and no other city services are provided during that same period. Location: East 32<sup>nd</sup> Ave & East Avenue.



Business Strategy – Preserve Rural Places





August 14, 2020

Representative Tom Craddick  
Chairman  
Land & Resource Management Committee

*Via E-Mail: Tom.Craddick@House.Texas.Gov*

Dear Representative Craddick:

The City of Georgetown respectfully submits its responses to Interim Charges 1, 2, and 3 that were included in the July 20, 2020 House of Representatives Notice of Formal Request for Information submitted by the Land & Resource Management Committee as follows:

**Interim Charge 1: Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure intended legislative outcome of all legislation, including HB 347, which eliminates the distinction between Tier 1 and Tier 2 counties and municipalities so that all cities are prohibited from using forced annexation. Determine if there is a need for further annexation legislation in Texas. Study how implementation of voter-approved annexation impacts the need for extraterritorial jurisdiction.**

**City of Georgetown Response:**

Regardless of annexation, cities have a vested interest in the form and function of the area surrounding existing city limit boundaries. Consistent subdivision regulations ensure adjacent subdivisions are developed under the same criteria, which in turn helps create a unified and harmonious urban area. A disjointed transportation network that would form from using county versus city long range transportation plans can lead to unintended consequences including the lack of adequate utilities extensions. Further, the cities and special utility districts provide water and/or wastewater; it is important for utility providers to have a role in subdivision development.

**Interim Charge 2: Review, in coordination with the Office of Attorney General, the efficacy of the Landowner's Bill of Rights (LBoR) in explaining to landowners the eminent domain condemnation process and their rights and responsibilities under Chapter 21 of the Property Code. Identify any omitted information which can enhance the landowner's understanding of the condemnation process and determine whether any other changes should be made to the document to make it more user friendly. Determine whether it would be beneficial for the legislature to be more prescriptive in statute 2 with the mandatory contents of the LBoR.**

**City of Georgetown Response:**

The Landowner's Bill of Rights is an effective, important tool for the City of Georgetown to begin discussions of eminent domain with landowners. This tool provides the opportunity for City staff to demonstrate upfront that our intention is to respect their rights throughout the process. The document in its current form is concise and understandable – explaining complex concepts to landowners. The current requirement to mail and provide the document on our website make it accessible and provided in a timely manner. A more prescriptive, complex version would undermine the use of the document as a transparent, approachable tool for public entities.

**Interim Charge 3: Study property owner's rights in eminent domain to examine and make recommendations on what should and should not constitute an actual progress to ensure the right of property owners to repurchase property seized through eminent domain by a condemning entity.**

**City of Georgetown Response:**

The current requirements of the Texas Property Code for public entities – to ensure actual progress of a project within 10 years – is more than a sufficient time requirement. Large public projects take time to design, fund, plan, and construct – a more limited timeline would unnecessarily hinder public improvement projects. Additionally, a shorter timeframe would foster more difficulty and misperception for both public entities and property owners. Georgetown, Texas is a growing community and City staff strives to identify and resolve needs in advance – saving taxpayer money. The City of Georgetown is currently able to purchase the ultimate right-of-way for projects which also allows for landowners to understand the full vision of the project. Further definition of “actual progress” seems unlikely to clarify landowners’ rights while undermining the ability for communities like Georgetown to undertake the complex and ambitious projects necessary to serve our fast-growing community.

Respectfully submitted,



David S. Morgan  
City Manager  
City of Georgetown  
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Georgetown, Texas 78626  
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## **House Committee on Land and Resource Management**

### **August 14, 2020**

City of Houston, Planning and Development Department

Contact:

Nicole Smothers

611 Walker St., 6<sup>th</sup> Floor

Houston, TX 77002

[Nicole.Smothers@houstontx.gov](mailto:Nicole.Smothers@houstontx.gov)

832-393-6580

The City of Houston, Planning and Development Department would like to comment on the House Land and Resource Management's request for information regarding Interim Charge No. 1, specifically, the need for the continuation of extraterritorial jurisdiction, even with voter-approved annexation in place statewide. No part of the City of Houston's extraterritorial jurisdiction (ETJ) is currently under consideration for annexation. The approved House Bill 347 has changed the process for annexation into cities, but not the purpose of the ETJ. The ETJ functionally provides a mechanism for rational development outside the City limits as well as optional services for developing areas. It serves a vital purpose for the City of Houston, which currently has some regulatory influence on growth outside its boundaries. Every day, the City experiences an increase in population of over 600,000 from daily commuters and could face further strain on city infrastructure and services without influence in the ETJ. The City of Houston gives the prerogative of a property owner the utmost consideration before making any changes to its jurisdiction or ETJ. It is current City policy not to release any property into the ETJ from the City limits of Houston without the property owner's consent. The City of Houston has also not processed any non-consensual full purpose annexations since the 1990s. The City's role in the ETJ relieves pressure from Harris County to plan and regulate the development of some of the fastest-growing areas in the region. It also fosters a collaborative approach to planning and growth between the City and the County. Without the ETJ, several services would no longer be provided by the City in the current ETJ including the following:

- **Major Thoroughfare and Freeway Plan (MTFP):** Annually, the City produces the Major Thoroughfare and Freeway Plan (MTFP). In compiling the MTFP, the City listens to developers and neighborhoods about such issues as congestion, mobility and future development plans. In that plan, the City identifies sections of roadways (either thoroughfares or major collectors) that need expansion, either by lengthening or widening. The plan serves as notice to the public for developing land adjacent to the identified roads. Nine amendments to the MTFP were submitted to the City of Houston within the past year.
- **Subdivision plat review:** The City's Planning and Development Department reviews subdivision plats for the proper subdivision of land, adequate street or right-of-way, building lines and compliance with Chapter 42, the City's land development ordinance. This city service allows ETJ residents the opportunity for rational growth and development without full purpose annexation. The City of Houston supports the continuation of this practice so that development remains consistent, and barriers for integrating with City services are reduced should the area want to be annexed in the future.
- **Strategic Partnership Agreements:** Some areas of the ETJ have been annexed into the City for limited purposes. These limited purpose annexations allow for areas to maintain autonomy, while also receiving a portion of City of Houston taxes that are reinvested in the Municipal



Utility Districts (MUD) where they are generated. In some instances, services such as police and fire are also provided.

While the ETJ system was designed to allow Texas cities to regulate areas outside their boundaries for the purpose of annexation in the future, the current system is more complex than that. It offers these areas flexibility and options for how they grow and develop. Without the ETJ, property owners and residents may face difficult decisions about whether to continue as unincorporated areas or go through the difficult process of creating new cities and, possibly, duplication of some services provided by or available through the City of Houston.

Thank you for your consideration of these comments.



**CITY OF SAN ANTONIO  
OFFICE OF MILITARY  
& VETERAN AFFAIRS**

12 August 2020

TO: Texas House Land and Resource Management Committee

FROM: Juan G. Ayala (MajGen, USMC, Ret)  
Director, Office of Military and Veteran Affairs  
City of San Antonio

SUBJECT: Response to RFI for Interim Charge 1

Honorable Chairman Craddick and Committee members,

This letter is submitted in response to the Texas Land and Resource Committee's formal Request for Information with respect to Interim Charge 1: *"Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure intended legislative outcome of all legislation, including HB 347, which eliminates the distinction between Tier 1 and Tier 2 counties and municipalities so that all cities are prohibited from using forced annexation. Determine if there is a need for further annexation legislation in Texas. Study how implementation of voter-approved annexation impacts the need for extraterritorial jurisdiction."*

It is imperative that no legislation undo the current protections that were included in the 85th Legislative Session's annexation reform legislation, giving defense communities the ability to protect installations from incompatible land use. Defense communities cannot accept the risk of legislation that would effectively do away with cities' ability to enforce lighting, sound attenuation, aquifer and tree/environmental protections, and other land use controls in the military buffer areas. Because military protections apply to areas that vote not to be annexed, legislation could potentially also undo cities' ability to enforce existing ordinances in the ETJ, further hampering efforts to protect military installations.

Legislation that would undermine the already very limited regulatory authority of Texas cities in ETJs risks San Antonio's newly-created ETJ Military Protection Areas (resulting from Senate Bill 6). Specifically, regulations to mitigate Camp Bullis from becoming a refuge of last resort for federally listed endangered species, subdivision platting, and master development plans. Limits on municipal annexation will continue to directly affect the City's ability to administer land use controls which would mitigate encroachment on all JBSA's installations and missions.

I am concerned with the interim charge report, and any resulting legislation that would nullify the military exemptions contained in Senate Bill 6 which was enacted in 2017. Specifically, the in-lieu of annexation authority that gives limited regulatory authority within 5 miles of a military base to implement specific Joint Land Use Study (JLUS) recommendations. Legislation that removes existing authority for a municipality to regulate development in an extraterritorial jurisdiction (ETJ) puts at risk the ability to mitigate urban encroachment around military installations. Such legislation would introduce the opportunity for incompatible land use in ETJs and negatively impact military missions and installations in any of the State's 15 defense communities, and from our local perspective, Joint Base San Antonio -- the largest joint base in the Department of Defense (DoD).





CITY OF SAN ANTONIO  
**OFFICE OF MILITARY  
& VETERAN AFFAIRS**

According to a 2020 Texas Comptroller of Public Accounts report, the estimated 2019 impact of the military on the Texas economy is nearly \$124 billion, up from \$101 billion in 2017. The economic impact of the military in the San Antonio region alone is \$41 billion -- essentially one-third of the state's total economic impact created by the military's presence. The Texas "military industry" is arguably one of the top 3 economic drivers in the state. For these reasons, we strongly urge that all current military protections contained in current law, except for the Regional Military Sustainability Commission, remain without change. If the viability of military training missions is threatened, military services could be forced to relocate missions and installations outside of the State of Texas. This could be significantly harmful to the Texas economy.

I request you consider the gravity of losing our military bases which generate \$124 billion yearly in economic impact to the State of Texas. When the next Congressionally-mandated Base Realignment and Closure (BRAC) round evaluates Texas military installations, one of the most important scoring criteria is community support. Legislation that removes cities' authority to regulate development in the ETJ does not protect military missions and does not suggest community support -- it does the opposite.

I have attached two information sheets to this letter; one that provides overall facts regarding Joint Base San Antonio, and another that describes the shortfalls of the Regional Military Sustainability Commission (RMSC).

Finally, I closely coordinate with the senior military installation commanders in our state, the senior operational Air Force Commander, civic and business leaders, and the Texas cities, counties and municipalities that host military installations, and from concerns they have relayed to me, I ask you to oppose any effort to remove a cities' authority to regulate development in the ETJ. This action will send a strong signal to the Department of Defense and the next set of BRAC scorers that that state of Texas does indeed support its military. Please feel free to contact me at any time to discuss this topic at (210) 207-6566 (office) (915) / 801-4995 (mobile) / [juan.ayala@sanantonio.gov](mailto:juan.ayala@sanantonio.gov), or my deputy, Tim Woliver (Lt Col, USAF, Ret) at (210) 207-4451 (office) / (210) 823-4094 / [tim.woliver@sanantonio.gov](mailto:tim.woliver@sanantonio.gov).

Respectfully submitted,

Juan G. Ayala (MajGen, USMC, Ret)  
Director, Office of Military and Veteran Affairs  
City of San Antonio





**CITY OF SAN ANTONIO  
OFFICE OF MILITARY  
& VETERAN AFFAIRS**

**Joint Base San Antonio Quick Facts**

The growth in new missions and significant construction activities brought about by Base Realignment and Closure ("BRAC 2005") strengthened San Antonio's role as a leading military research, training, and education center. One of the major outcomes of BRAC 2005 was the creation of Joint Base San Antonio ("JBSA") which is the largest joint base in the DoD. The following fact sheet about JBSA is included for your awareness:

- Four installations cover 46,500 acres, and supports over 80,000 personnel and 266 mission partners
- \$41B economic impact to Texas and \$13B to San Antonio; 634K in direct and indirect employment
- All base support functions, real property, and land for JBSA-Lackland, JBSA-Randolph, JBSA-Fort Sam Houston, and JBSA-Camp Bullis) under the 502nd Air Base Wing
- Major mission partners across JBSA: U.S. Army North, U.S. Army South, HQ Air Education and Training Command, 16th Air Force, Army Medical Command, Army Mission and Installation Contracting Command, the Navy Medicine Education and Training Command, Army Installation Management Command, Air Force Installation and Mission Support Center
- 138K+ personnel are trained at JBSA facilities every year
- \$900M Military Construction (MILCON) underway -- largest Air Force MILCON program
- Military missions represent \$41B economic impact to the City of San Antonio
- 2005 BRAC brought major medical realignment along with \$3.2B in MILCON and 12.5K jobs
- Brooke Army Medical Center (BAMC) -- DoD's only Level 1 trauma center; 85% of trauma patients are non-DoD affiliated civilians treated under the DoD's Secretarial Designee program
- BAMC is the nation's premier military training platform to prepare military healthcare professionals to provide life-saving combat medical care
- BAMC provides support to 2.6M people across 22 counties/26M square miles in southwest Texas
- All Air Force, Army, and Navy enlisted medical technicians are trained at JBSA-Fort Sam Houston
- Medical training, special forces training and other combat operations training (day and night) is conducted at JBSA-Camp Bullis; from 2013 and 2016, approximately 550K personnel trained here
- JBSA-Lackland hosts: Air Force's only Basic Military Training location for all enlisted Airmen; Air Force Security Forces school house; Inter-American Air Forces Academy
- Adjacent and contiguous to JBSA-Lackland is Port San Antonio (formerly Kelly AFB) -- "the Port"
- The Air Force and the Port jointly utilize the runway for military and commercial airfield operations
- The Air Force continues to lease over 30 buildings, which consist of 1.75M square feet of space
- Largest Air Force leaseback is at Building 171, a 460K square foot facility; Air Force spent \$26.5M to renovate the building, which houses 11 missions
- Approximately 7,000 DoD personnel work at Building 171 and other facilities at the Port
- JBSA-Randolph houses the HQ Air Education and Training Command, Air Force Personnel Center, Air Force Recruiting Service, and 19th Air Force
- JBSA-Randolph's primary operational mission is undergraduate pilot and instructor pilot training





**CITY OF SAN ANTONIO  
OFFICE OF MILITARY  
& VETERAN AFFAIRS**

**Concerns Related to the Regional Military Sustainability Commission**

- Some legislators recommend utilizing the Regional Military Sustainability Commission (RMSC) to handle development concerns. This Commission exists only on paper and its governing statute lacks the necessary resources and authority to fully protect Texas military installations compared to existing authority.
- According to Texas' military leaders, current JLUS' continue to be the best protection for Texas' military missions and installations; RMSC intent is now overcome by events
- RMSC recommendations would be optional and not required to be followed by the regulatory authority (in San Antonio alone, JBSA encompasses four counties, four Congressional districts, and 20 smaller cities/communities -- all would have to agree)
- RMSC does not give additional authority to cities and counties in the ETJ or unincorporated areas; RMSC could not implement any effective recommendations
- RMSC's constricting 2-mile territory limits installation protections, making RMSC recommendations insufficient and in direct conflict with the 5-mile buffers cited in the detailed recommendations and community-approved JLUS
- RMSC existed since 2009; neither the military nor municipalities have implemented it due to its inherent shortfalls and inability to adequately protect installations





August 14, 2020

The Honorable Representative Tom Craddick, Chair  
Texas House of Representatives Committee on Land & Resource Management  
Room E2.136  
P.O. Box 2910  
Austin, TX 78768

*Via electronic mail to [tom.craddick@house.texas.gov](mailto:tom.craddick@house.texas.gov)*

RE: Request for information regarding interim charges

Dear Chair Craddick and Committee Members:

Thank you for giving El Paso County the opportunity to respond to the Committee on Land & Resource Management's interim charges.

**Charge 1, regarding annexation and House Bill 347 (2019)**

Population in the unincorporated area of El Paso County has increased significantly over the past decade. While the County's population has increased an estimated eight percent since 2010, various census tracts located outside of municipalities have grown at rates nine to 12 times faster than that—nearly doubling in populations in eight years. This level of growth is unprecedented and places an increased demand on the County's already strained ability to provide various municipal-style services, including maintenance of new residential roadways, construction of major thoroughfares and arterials, mitigation and control of stormwater and flood hazard areas, construction and maintenance of new park and recreational facilities and other expectations for suburban development. Rising to provide this increased demand for suburban services is further challenged by property tax revenue limitations also imposed by the Legislature in Senate Bill 2 (2019). This shift in service delivery responsibility, caused by further limiting municipal annexation practices, places the duty on counties, which are severely limited in their land use authority and revenue generation resources.

One area for additional consideration is the problem of small parcels of land that are surrounded by properties located within a municipality, but that remain unincorporated after historic annexation practices. Specifically, for counties along the US/Mexico border, these unincorporated "donut holes" may be identified *colonias*, communities lacking access to basic infrastructure services, including potable drinking water. The jurisdictional issues that arise from these donut holes create a number of challenges to providing for the health, safety and welfare of residents in those communities. This extends beyond infrastructure, such as water and wastewater service; it's also a challenge to provide critical emergency services to these communities. For example, a municipal fire department won't respond to an unincorporated area even when its fire station is closer than an emergency service district's station. Legislation to address these unique



circumstances may be necessary to ensure all Texans gain access to basic infrastructure and emergency services.

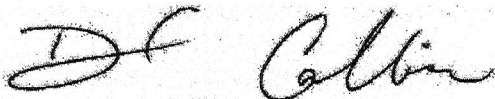
### **Charge 3, regarding eminent domain**

El Paso County has had great success in constructing a number of critical infrastructure projects for the community throughout cooperative and voluntary land transactions. As the El Paso community continues to grow, the County has emerged as a leader in providing regional transportation solutions between different municipalities and regions throughout the community. When purchasing property voluntarily, the County continues to honor the rights of private property owners to receive a fair market price for the purchase of their land.

Use of eminent domain would always be a last resort for El Paso County. However, the eastern portion of the County presents unique challenges that may leave the County with no other option than use of eminent domain. Specifically, growth in East El Paso County is being stymied by land which can't be profitably developed because it does not comply with model subdivision rules. During the 1950s through early 1980s, large tracts in El Paso County were subdivided into small "fractionalized lots" and sold to thousands of individuals on speculation they would be good investments. However, today these "fractionalized lots" have little resale value because they have no infrastructure. Further, absent land owners make it difficult to acquire property for development. As of 2019, it was estimated that there over 54,000 acres of such undevelopable lots within El Paso County. The challenges they create extend to acquiring the necessary right-of-way for some critical regional thoroughfares currently under design and funded by the El Paso Metropolitan Planning Organization. It is critical that El Paso County continue to have access to prudent use of condemnation to ensure necessary infrastructure projects continue to move forward to serve our community.

Thank you again for this opportunity to offer comments on the Committee's charges. Please do not hesitate to contact the County should you have any questions.

Sincerely,



Daniel F. Collins  
Governmental Affairs Manager  
County of El Paso, Texas  
500 E. San Antonio Ave., Room 311  
El Paso, Texas 79901  
dcollins@epcounty.com  
915.546.2215

August 14, 2020

Re: Interim Charge 1 – House Committee on Land & Resource Management

Chairman Craddick and Committee Members:

Thank you for the successful adoption of HB 347, which stops forced annexation statewide, safeguards property rights, and protects property owner rights. As part of your current Interim Study Charge 1 to monitor and oversee this new law and city legal authority in the municipal extraterritorial jurisdiction (ETJ), please consider ways to provide the following:

- Ensure that the letter, intent, and spirit of the law are respected so that a city or political subdivision does not use a loophole or otherwise subvert current law.
- Provide protection so that any land development agreement between an unincorporated property owner and a city is deemed void if the city communications lack full transparency for all affected landowners or lack sufficient references to law.
- Allow for full nullification of development agreements that were forced upon property owners through the forced annexation process
- Require that any alteration or change in an ETJ boundary will trigger sufficient written notice delivered to all property owners who are newly placed into an ETJ.
- Mandate that the ability to vote on an annexation proposal cannot be waived.
- Improve the law regarding municipal authority and regulatory power in the ETJ, including the undue Local Government Code section 212.003(a) loophole language – “unless otherwise authorized by state law” – that effectively allows a city to use and exercise the full spectrum of inherent municipal power in an ETJ.
- Deliver a transparent, updated, and streamlined statutory framework providing a clear and coherent lines of governmental authority and regulatory power between counties and cities in the ETJ.

We appreciate the opportunity to submit these comments. Thank you for your collective service for Texans and for all you do for Texas.

Sincerely,  
Louis Ponder



Ellis County Annexation Reform Director  
[lponder@approvedhhc.com](mailto:lponder@approvedhhc.com)  
214-458-0719



Alamo, Austin, and Lone Star chapters of  
a Club

Audubon Society  
Bexar Green Party  
Boerne Together  
Bulverde Neighborhood Alliance  
Cibolo Nature Center  
Citizens Allied for Smart Expansion  
Citizens for the Protection of Cibolo Creek  
Comal County Conservation Alliance  
Environment Texas  
First Universalist Unitarian Church of  
San Antonio  
Friends of Canyon Lake  
Friends of Dry Comal Creek  
Friends of Government Canyon  
Fuerza Unida  
Green Party of Austin  
Green Society of UTSA  
Guadalupe River Road Alliance  
Guardians of Lick Creek  
Headwaters at Incarnate Word  
Helotes Heritage Association  
Hill Country Planning Association  
Kendall County Well Owners Association  
County Ground Zero  
Leon Springs Business Association  
Medina County Environmental Action  
Native Plant Society of Texas – SA  
Northwest Interstate Coalition of  
Neighborhoods  
Preserve Castroville  
Preserve Lake Dunlop Association  
San Antonio Audubon Society  
San Antonio Conservation Society  
San Geronimo Valley Alliance  
San Marcos Greenbelt Alliance  
San Marcos River Foundation  
Save Barton Creek Association  
Save Our Springs Alliance  
Scenic Loop/Boerne Stage Alliance  
Securing a Future Environment  
SEED Coalition  
Solar San Antonio  
Sisters of the Divine Providence  
Travis County Green Party  
Water Aid – Texas State University  
West Texas Springs Alliance  
Rescue & Rehabilitation  
Winlerley Valley Watershed Association

August 14, 2020

House Land & Resource Management Committee

Re: Interim Charge #1

Honorable Members of the House Land & Resource Management Committee,

On behalf of our 52 member organizations and thousands of individual members, the Greater Edwards Aquifer Alliance (GEAA) strongly opposes any measures proposed to diminish the authority of a municipality to impose a fine or fee in certain areas in the municipality's extraterritorial jurisdiction. The comments provided here are in relation to a specific part of Interim Charge #1 that reads as follows: "Study how implementation of voter-approved annexation impacts the need for extraterritorial jurisdiction."

Over the past fifteen years we have repeatedly weighed in before your committee on the potential negative consequences for protection of the environment in Texas cities and their surrounding areas if the ability of municipalities to have ETJs and take action within ETJs is eliminated or seriously hampered.

The citizens that GEAA represents overwhelmingly support application of water quality ordinances in the ETJ. For example, land development patterns existing within the area that would be subject to such proposed legislation (46,000 acres governed by San Antonio's aquifer protection ordinance) have largely complied with San Antonio's regulations. Higher density new development that does not comply with San Antonio's water quality ordinances would not be compatible with existing land uses.

To change the rules at this point would decrease the quality of life and property values of those currently residing within the area. Stormwater management is a serious issue within this area, part of the notorious "Flash Flood Alley" that is among the areas most at risk of flooding in the U.S.A. Other efforts undertaken during the 82nd legislative session have devoted substantial resources to address stormwater management and flooding. Diminishing municipal authority would, we believe, undermine these efforts within this vulnerable area.

San Antonio's water quality ordinances not only protect San Antonio's water supply, they also protect the quality of water issuing from Comal and San Marcos springs and the groundwater supplies of thousands of households that rely on private wells.

Many similar attempts have been made during past legislative sessions to nullify ability of municipalities to apply local ordinances within ETJ's. All were ultimately defeated. Likewise, we urge you to abandon consideration of similar efforts. Thank you for the opportunity to submit these comments.

Respectfully,

Annalisa Peace, Executive Director  
Greater Edwards Aquifer Alliance  
1809 Blanco Road  
San Antonio, Texas 78212

[Annalisa@AquiferAlliance.org](mailto:Annalisa@AquiferAlliance.org) 210-320-6294



North Austin  
Municipal Utility District #1

The Honorable Tom Craddick  
Chair, House Committee on Land & Resource  
1100 Congress Ave.  
Austin, Tx. 78701  
RE: Interim Charge #1

Speaker Craddick:

**Background:** As HB 347 amended the Local Government Code to eliminate the tier system with regard to the application of consent municipal annexation requirements, there remains a critical need to address delays by municipalities in annexing extraterritorial jurisdictions (ETJ). Residents of a municipality's ETJ that have not been annexed within a reasonable period of time would welcome the opportunity to petition the municipality for removal from the municipality's ETJ. HB 347 provided transparency and a democratic process related to municipal annexations, but perhaps lawmakers should consider expanding property owner participation related to ETJs not annexed after a reasonable amount of time. This change could also perhaps save municipalities significant revenue since unannexed ETJs represent an unfunded tax base. Tex. Local Government Code, 341.903, for example, authorizes a home rule municipality to police areas located outside the municipality. Other examples of state laws that authorize cities to regulate in the ETJ, regulations that cost the municipality significant amounts of dollars to enforce, for which they are receiving no tax revenue include:

- Health & Safety Code § 713.009 – Cemeteries
- Local Government Code Chapter 43 – Annexation
- Local Government Code § 212.003(a) – Subdivision and Platting Regulations
- Local Government Code §§ 216.003, 216.902 – Signs
- Local Government Code § 217.042 – Nuisances within 5,000 feet (home rule city only)
- Local Government Code § 552.001 – Utility System
- Water Code § 26.177 – Pollution Control and Abatement

**Recommendation:** Allow residents of an ETJ to use the petition and election procedures similar to those proscribed for municipal annexation.

Thank you for your past leadership in this area in safeguarding a property owner's rights. Your thoughtful consideration is much appreciated. Should you have any questions, please feel free to contact me. [don.conklin@flightsafety.com](mailto:don.conklin@flightsafety.com) or 512.965.6294

Respectfully,

Don Conklin, Vice President, NAMUD #1



Ken Kramer, Water Resources Chair  
Lone Star Chapter of the Sierra Club  
P O Box 4998  
Austin, TX 78765  
[kramerkenw@gmail.com](mailto:kramerkenw@gmail.com)  
512-626-4204 (cell)  
<https://www.sierraclub.org/texas>

**Comments of the Lone Star Chapter of the Sierra Club Regarding Interim Charge #1 of the Committee on Land & Resource Management of the Texas House of Representatives – Submitted Via Email on August 14, 2020**

The Lone Star Chapter of the Sierra Club appreciates the opportunity that the House Land & Resource Management Committee has provided to organizations and individuals to submit comments electronically in response to the interim charges of the Committee during these very challenging times. The comments provided here are in relation to a specific part of Interim Charge #1 that reads as follows: “Study how implementation of voter-approved annexation impacts the need for extraterritorial jurisdiction.”

The intention behind that directive in Charge #1 is not self-evident. However, this charge may reflect the belief of some legislators that restrictions placed by HB 347 last session on the ability of Texas municipalities to annex land will dramatically reduce annexations. Based on that assumption, these lawmakers may feel that part of the rationale for allowing municipalities to have ETJs and take actions within their ETJ – to achieve consistency of certain standards within existing municipal boundaries and within ETJ areas likely to be annexed – is no longer valid.

The Sierra Club respectfully disagrees with that viewpoint, especially because of the potential negative consequences for protection of the environment in Texas cities and their surrounding areas if the ability of municipalities to have ETJs and take action within ETJs is eliminated or seriously hampered. Actual or potential threats to the environment transcend political boundaries – for example, contaminated stormwater runoff from developing areas outside a city’s municipal limits may pollute a stream that runs throughout the city, resulting in city expenditures to clean up that stream and/or degraded property values for people whose homes or businesses within the city are adjacent to the stream.

The above example is one of “nonpoint source pollution” – water pollution that stems from diffuse sources such as runoff of debris from construction sites, herbicides applied to lawns and shrubs, and litter thrown on streets and vacant lots – as contrasted to “point source pollution” from identifiable sources such as a wastewater discharge pipe from a sewage treatment plant or an industrial manufacturing facility. Point sources of water pollution are regulated in Texas by a state agency, primarily the Texas Commission on Environmental Quality (TCEQ), which develops and issues wastewater discharge permits for those facilities to limit levels of pollutants going into streams and enforces those permit limitations (although counties and

cities have some limited authority to enforce those wastewater discharge permits within their geographic boundaries).

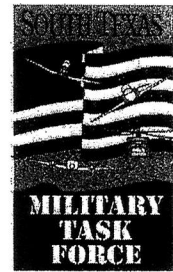
However, nonpoint source water pollution control in Texas is left largely to local governments. But Texas counties, which do not have general ordinance-making authority nor a specific grant of power to regulate nonpoint pollution, have very few actions that they make take to address this form of water pollution.

That leaves municipalities as the primary entities to tackle nonpoint source water pollution. The actions taken by cities across the state to address this pollution problem vary widely across the state but may include requirements for barriers to prevent runoff of debris at construction sites, containment devices for oil and grease at auto repair shops, and other such measures but also activities such as street-sweeping and installation of litter containers in public places. Where a municipality has an ETJ, that municipality may implement these requirements and activities within that ETJ as well as within the corporate limits of the city.

Without the authority to have an ETJ, a municipality would not be able to take these steps to prevent nonpoint source water pollution anywhere but within its city limits. That means, in the absence of county-ordinance making authority and state agency responsibility and resources to implement control measures, no government entity would have authority to control nonpoint pollution sources within an area outside the city limits, even if that area was developing or had developed into an urban/suburban area with all the potential sources of nonpoint pollution found within the city limits.

Of course, even continuing to grant municipalities an ETJ and authority to address such an environmental issue as nonpoint source water pollution within that ETJ leaves other quickly developing unincorporated areas without such pollution control programs, but at least some areas will be served. Moreover, the residents of those areas within a municipality's ETJ will benefit from activities such as a city's efforts to control nonpoint source pollution – in terms of a cleaner environment, enhanced property values, and perhaps provision of some services that might otherwise not be available – regardless of whether or not those residents vote to approve any proposed annexation by the city.

From the perspective of the Sierra Club, the failure of the Texas Legislature to provide sufficient authority and opportunity for adequate financial resources by counties to tackle problems such as nonpoint source water pollution within their jurisdictions means that the State of Texas will continue to have at best piecemeal solutions to various local problems, especially in rapidly growing and urbanizing parts of the state. However, unless the Legislature is willing to take bold and effective steps to make a more comprehensive effort to address this situation, the state's lawmakers should not take away the authority for municipalities to continue to have ETJs and the authority of those municipalities to take appropriate actions within their ETJs to protect the environment, especially where those actions are also necessary to protect the environment within the city itself.



August 14, 2020

The Honorable Tom Craddick  
Chairman, Land and Resource Management Committee  
Texas House of Representatives  
Via email: [tom.craddick@house.texas.gov](mailto:tom.craddick@house.texas.gov)

Dear Chairman,

Thank you the opportunity to provide comment in response to the Texas Land and Resource Committee's formal Request for Information with respect to Interim Charge 1: *"Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure intended legislative outcome of all legislation, including HB 347, which eliminates the distinction between Tier 1 and Tier 2 counties and municipalities so that all cities are prohibited from using forced annexation. Determine if there is a need for further annexation legislation in Texas. Study how implementation of voter-approved annexation impacts the need for extraterritorial jurisdiction."*

The economy of the Coastal Bend region is entwined with the military installations of South Texas. In previous rounds of Base Realignment and Closure (BRAC), the Coastal Bend lost NAS Chase Field in Beeville in 1993 and most recently Naval Station Ingleside (NSI) in BRAC 2005. BRAC resulted in job losses and economic hardship throughout the Coastal Bend. The City of Corpus Christi was stung financially by the Great Recession and the NSI BRAC, which officially closed in 2010. According to the Texas Comptroller of Public Accounts data between 2009-2010, Corpus Christi gross sales taxes dropped by 9.78 percent and mixed beverage taxes were down about two percent each year. At the local level, property tax revenue growth was slowed between 2009 and 2010. As the regional water provider for approximately 500,000 customers in seven counties, BRAC actions also resulted in reduced consumption and thus lower water revenues to the City of Corpus Christi. Consumption in Beeville decreased immediately following the BRAC of NAS Chase Field. Consumption of raw water provided by the City to the San Patricio Municipal Water System, which serves Ingleside, dropped following the BRAC of NS Ingleside.

The South Texas Military Task Force is committed to ensuring this does not occur in South Texas again. Annexation authority was a central part of the land use and development system used for decades to protect the balance of interests in and around Texas military bases. Significant reforms have now been made that limit its applicability.



We want to tell you about a specific example of how annexation was utilized to protect a South Texas military installation. In 2013, the City of Corpus Christi was faced with an alarming situation. A wind developer was preparing to install a large wind turbine project in land quite near the city limits. While this would definitely impede growth of new homes and development in one of the city's main growth corridors, the alarming consequences of these wind turbines was the impact on Naval flight training activities in that area.

Naval Air Station Corpus Christi (NASCC) is one of the two naval facilities responsible for basic flight training of naval and other military pilots. It is an important national security asset, but also a critical part of our local economy and the economy of Texas. Naval Station Corpus Christi, and the Corpus Christi Army Depot which is a tenant on the naval base, contribute over \$4.4 billion to the Texas economy and represent over 7.5 percent of the local economy. Approximately 8,400 local jobs are directly related to NASCC and over 26,000 area jobs are indirectly related to the presence of the Corpus Christi Naval Air Station.

Navy flight training leadership in the South Texas region has indicated that the encroachment of wind farm installations located on nearby flight paths of military facilities, particularly training facilities, if not halted, could well result in the closure of these facilities. Closure of NASCC would result in the closure of the Army Depot and other military missions on the base.

The wind turbines would produce radar interference which was particularly problematic to the initial training of aviators. The wind turbine company was willing to negotiate on the number and location of the turbines.

The only alternative left was for the City of Corpus Christi to annex some of the proposed wind turbine area to protect the local economy. It was not a decision made lightly. As a result of the annexation, the company came to the negotiating table and re-planned the turbine locations and reduced their number. The City then agreed it would de-annex the area.

This situation demonstrates the importance of a City being able to expediently employ annexation as a tool to protect its economy and citizens. Limiting the annexation powers of cities can have any number of unknown consequences. Time is of the essence in some of these situations. Ultimately, citizens always have the power to change their elected leadership if they feel they are not protecting their best interests.

The South Texas Military Facilities Task Force, which is part of the United Corpus Christi Chamber of Commerce, supported the City's effort to limit encroachment in order to protect our base. The Executive Committee of the Task Force primarily consists of business people who respect the rights of private property owners and companies. In this case, though, we decided that the potential impact on existing businesses and our economy if naval training was halted and the base closed was paramount.

We can also see instances, particularly in terms of military needs and protection, where eminent domain may be an important tool to secure activities critical to a community, the state and the nation. For example, eminent domain, or the threat of it, has allowed for protection of areas around training fields to limit height obstructions and high density use that could result in risks to health and safety in critical portions of flight paths for take-offs and landings. These areas do change from time to time when new planes are put into service.

We respectfully urge you to not place further restrictions on municipalities' abilities to utilize annexation and eminent domain. These restrictions could have dire impacts on the future of military activities in Texas.

With Respect,

A black and white image of a handwritten signature, which appears to read "Alan Wilson", on a textured background.

Alan Wilson  
Chairman  
South Texas Military Task Force  
United Corpus Christi Chamber of Commerce  
602 N. Staples Street, Suite 150  
Corpus Christi, Texas 78401  
361-881-1800  
[www.unitedcccchamber.com](http://www.unitedcccchamber.com)

August 14, 2020

## Re: Interim Charge 1 – House Committee on Land & Resource Management

To: Chairman Craddick and Committee Members:  
Fr: Stop Forced Annexation in Atascosa County group

Our “Stop Forced Annexation in Atascosa County” group fully endorse the efforts to stop forced annexation current and pending for all of the counties in our great state of Texas.

We thank you for the successful adoption of HB 347, which stops forced annexation statewide, safeguards property rights, and protects property owner rights. As part of your current Interim Study Charge 1 to monitor and oversee this new law and city legal authority in the municipal extraterritorial jurisdiction (ETJ), please consider ways to provide the following:

- Ensure that the letter, intent, and spirit of the law are respected so that a city or political subdivision does not use a loophole or otherwise subvert current law.
- Provide protection so that any land development agreement between an unincorporated property owner and a city is deemed void if the city communications lack full transparency for all affected landowners or lack sufficient references to law.
- Allow for full nullification of development agreements that were forced upon property owners through the forced annexation process
- Require that any alteration or change in an ETJ boundary will trigger sufficient written notice delivered to all property owners who are newly placed into an ETJ.
- Mandate that the ability to vote on an annexation proposal cannot be waived.
- Improve the law regarding municipal authority and regulatory power in the ETJ, including the undue Local Government Code section 212.003(a) loophole language – “unless otherwise authorized by state law” – that effectively allows a city to use and exercise the full spectrum of inherent municipal power in an ETJ.
- Deliver a transparent, updated, and streamlined statutory framework providing a clear and coherent lines of governmental authority and regulatory power between counties and cities in the ETJ.
- Allow for full nullification of development agreements that were forced upon property owners through the forced annexation process.



We appreciate the opportunity to submit these comments. Thank you for your collective service for Texans and for all you do for Texas.

Sincerely,

Marie Levy, founder  
"Stop Forced Annexation in Atascosa County" initiative  
210-846-1728

Endorsement of co/founder:

**Linda Carter**

3:58 PM (27 minutes  
ago)

to me, Caroline, Will

Hello Marie, Caroline and Will,

Yes, I am in agreement.

Please add my signature to your letter.

Let's eradicate forced annexation for all counties in Texas!

Linda Carter  
949 Horton Ln  
Poteet, TX 78065  
(210) 823-3914

--

Thank you,

Linda Carter  
Oliveberry Farm  
949 Horton Ln.  
Poteet, TX 78065-4188  
210-823-3914

August 14, 2020

Re: Interim Charge 1 – House Committee on Land & Resource Management

Chairman Craddick and Committee Members:

Thank you for the successful adoption of HB 347, which stops forced annexation statewide, safeguards property rights, and protects property owner rights. As part of your current Interim Study Charge 1 to monitor and oversee this new law and city legal authority in the municipal extraterritorial jurisdiction (ETJ), please consider ways to provide the following:

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- Provide protection so that any land development agreement between an unincorporated property owner and a city is deemed void if the city communications lack full transparency for all affected landowners or lack sufficient references to law.
- Require that any alteration or change in an ETJ boundary will trigger sufficient written notice delivered to all property owners who are newly placed into an ETJ.
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- Improve the law regarding municipal authority and regulatory power in the ETJ, including the undue Local Government Code section 212.003(a) loophole language – “unless otherwise authorized by state law” – that effectively allows a city to use and exercise the full spectrum of inherent municipal power in an ETJ.
- Deliver a transparent, updated, and streamlined statutory framework providing a clear and coherent lines of governmental authority and regulatory power between counties and cities in the ETJ.
- Allow for full nullification of development agreements that were forced upon property owners through the forced annexation process and continue to add stress and anxiety to property owners who were forced into these extra territorial jurisdictions against their will.
- 1Prohibit developers from executing voluntary annexation of land they purchased for the sole purpose of development of any kind. Cities could easily offer inducements to developers in return for them allowing for voluntary annexation of tracts of land purchased for development purposes. This is a workaround we’ve heard being considered by the city of Burleson.

- Prohibit county commissioners from aiding or abetting in any annexation plans by cities in their jurisdictions. Cities could work to install favorable candidates on the commissioner's courts who would aid them in future annexation endeavors.

We appreciate the opportunity to submit these comments. Thank you for your collective service for Texans and for all you do for Texas.

Sincerely,

Paul Jones – Stop Forced Annexation in Johnson County, city of Joshua  
Peggie Jones – Stop Forced Annexation in Johnson County, city of Joshua  
Lynda Jackson - Stop Forced Annexation in Johnson County, city of Joshua  
Jeff Bevel - Stop Forced Annexation in Johnson County, city of Joshua  
Nancy Pendleton - Stop Forced Annexation in Johnson County, city of Burleson  
Steve LaVoi - Stop Forced Annexation in Johnson County, city of Mansfield  
Craig and Teresa Hornbeck – Godley, TX  
Baker Hughes – Crowley, TX  
Dan Roberts – Keene, TX  
Jenny Emery – Alvarado, TX  
Danny Scarborough – Cleburne, TX  
Pam Giffert – Grandview, TX

August 13, 2020

Re: Interim Charge 1 – House Committee on Land & Resource Management

Chairman Craddick and Committee Members:

The Stop Involuntary Annexation Group of Parker County would like to say thank you for the adoption of HB347. The property owners of Parker County are relieved that we truly have our property rights back. As part of your current Interim Study Charge 1 to monitor and oversee this new law and city legal authority in the municipal extraterritorial jurisdiction (ETJ), please consider ways to provide the following:

- Ensure that the letter, intent, and spirit of the law are respected so that a city or political subdivision does not use a loophole or otherwise subvert current law.
- Provide protection so that any land development agreement between an unincorporated property owner and a city is deemed void if the city communications lack full transparency for all affected landowners or lack sufficient references to law.
- Require that any alteration or change in an ETJ boundary will trigger sufficient written notice delivered to all property owners who are newly placed into an ETJ.
- Mandate that the ability to vote on an annexation proposal cannot be waived.
- Improve the law regarding municipal authority and regulatory power in the ETJ, including the undue Local Government Code section 212.003(a) loophole language – “unless otherwise authorized by state law” – that effectively allows a city to use and exercise the full spectrum of inherent municipal power in an ETJ.
- Deliver a transparent, updated, and streamlined statutory framework providing a clear and coherent lines of governmental authority and regulatory power between counties and cities in the ETJ.

We appreciate the opportunity to submit these comments. Thank you for your collective service for Texans and for all you do for Texas.

Sincerely,

Stop Involuntary Annexation in Parker County

Board Members:

Laura Hester, Chris Hester, Nathan Vick, Dedra Vick, Courtney Butler, Gary Wagner, Jim Welty, Candy Welty, Kathy Nichols, Rusty Witt, Travis Unger, Helen Biggs, & Deborah Moran

August 14, 2020  
Chairman Tom Craddick  
Texas House of Representatives  
Land and Resources management Committee

RE: HB 347 on Forced Annexation

Dear Chairman Craddick and Fellow Committee Members

I would like to introduce myself as a long time warrior in the fight against forced annexation. I am also an elected member of the State Republican Executive Committee representing 18 counties of South Texas.

A few of you may remember me from testimony in the 85<sup>th</sup> and 86<sup>th</sup> Legislature. I worked closely with Senators Konni Burton and Donna Campbell and Representative Phil King to bring an end to this abuse by many cities. I was also the Chairman of a local PAC named Stop Seguin South and a board member of another PAC named Stop Forced Annexation in Guadalupe County.

I was happy with the legislation passed in the 85<sup>th</sup> but felt it fell short in protecting Texas citizens beyond the major metro areas. The legislation passed in the 86<sup>th</sup> completed the necessary work and I sincerely thank the members of both the House and the Senate for their efforts to end this atrocity.

Unfortunately, we have discovered that many cities under the direction of the Texas Municipal League and their Tax Payer Funded lobbyist are now seeking out loop holes possibly even to include imminent domain as a source of increased land and tax base. The largest issue I have encountered in speaking with my constituents in South Texas is clearly the signing of land development agreements that were signed under duress, agreements that were signed as an only option to keep city tax and regulations at bay if only for a period of time.

As a representative of 18 largely rural but growing Texas Counties, I and my constituents would strongly urge you and your committee to address the possible nullification of Land Development Agreements, that you would closely monitor Municipal land growth and work to curtail all but the absolute must have Eminent Domain, specifically for State Highway improvement but never for private concerns.

My contact information can be found in the body of this email and I welcome an opportunity to help or testify in any way. As an active member of the Republican Party of Texas Legislative Priorities Committee, I can promise I will be knocking on your doors during the 87<sup>th</sup> Legislature.

I look forward to visiting and working with you to do what is right for Texas Citizens.

Sincerely,

Terry Harper

SREC SD 21

1721 Schneider Road

Seguin Texas 78155  
830-660-1612  
[Gop.terryharper@gmail.com](mailto:Gop.terryharper@gmail.com)

March 7, 2020  
Precinct 105  
Guadalupe County Texas

A Resolution to Nullify Forced Annexation Agreements

WHEREAS, through the actions of forced annexations, cities were required under Local Government Code 43.035 (now in section 212.172) to give development agreements to property owners of land being used for agriculture, timber or wildlife management; and

WHEREAS, many municipalities sent letters to property owners indicating that they were sending the Development Agreements as a courtesy or upon request of the Property Owner. This practice was deceptive and required by law; and

WHEREAS, These Development Agreements were written by the Texas Municipal League to meet the city needs. Local Government Code 43.035 did not provide for cities to add a clause stating that, "at the end of the agreement, the property owner agreed to be forcibly annexed"; and

WHEREAS, most if not all municipalities refuse to negotiate the agreements knowing that the property owners agreed only because they believed they would be immediately annexed and the agreement would defer forced annexation until the end of the agreement term,

NOW, THEREFORE BE IT RESOLVED that because these Development Agreements violated Local Government Code 43.035, the 87<sup>th</sup> Legislature should require the municipalities involved to nullify in full or upon request of the property owner.

Signed this Day: \_\_\_\_\_  
Submitter: \_\_\_\_\_  
Precinct Convention Chair \_\_\_\_\_

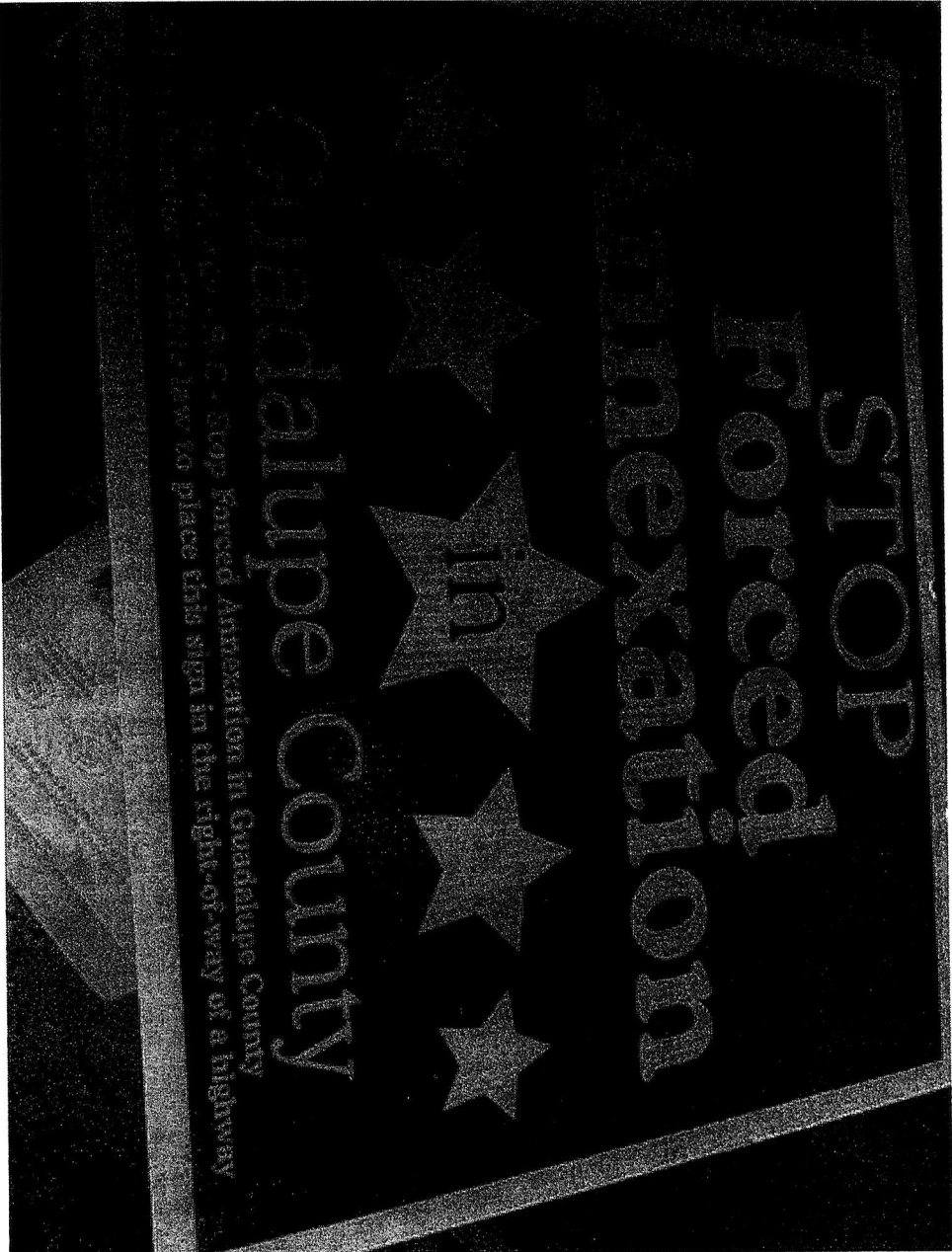


# STOP Forced Annexation

in

## Guadalupe County

Article 11, Section 1, Texas Constitution - Stop Forced Annexation in Guadalupe County  
Article 11, Section 1, Texas Constitution - Stop Forced Annexation in Guadalupe County  
Article 11, Section 1, Texas Constitution - Stop Forced Annexation in Guadalupe County







August 14, 2020

**Via Electronic Mail**

The Honorable Tom Craddick  
Chairman, Committee on Land and Resource Management  
Texas House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910

Dear Chairman Craddick:

On behalf of the Texas Association of Builders ("TAB"), I would like to submit the following preliminary comments regarding the Committee's interim charge 1, which reads as follows:

"Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure intended legislative outcome of all legislation, including HB 347, which eliminates the distinction between Tier 1 and Tier 2 counties and municipalities so that all cities are prohibited from using forced annexation. Determine if there is a need for further annexation legislation in Texas. Study how implementation of voter-approved annexation impacts the need for extraterritorial jurisdiction."

First of all, thank you for the opportunity to comment on this important issue during the ongoing pandemic; it is much appreciated by all. One of the primary principles upon which Texas was built is the right an individual has in his or her property. Unreasonable regulations can come in many forms, ranging from active regulatory actions and fees to the denial of statutorily protected rights in one's property. Over the last two sessions, the Texas Legislature has acted to defend those rights by prohibiting forced annexations that can result in unreasonable regulations and diminish the value of private property by imposing overreaching restrictions or fees on its reasonable use. Included in those actions is HB 374 by Chairman Phil King from the 86<sup>th</sup> Regular Session.

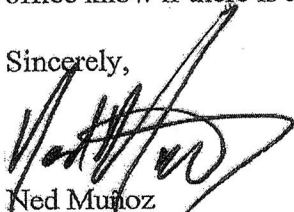
While annexations will certainly be more limited in the future, the property rights of extraterritorial residents must be protected. The Municipal Annexation Act ("MMA") grants every city an exclusive area of extraterritorial jurisdiction ("ETJ"). The ETJ territories controlled by major cities are huge and can surpass the city itself in terms of land mass. The

MMA also gives cities explicit, limited powers to regulate platting and subdivisions in ETJ areas. The stated purpose is to ensure that new streets and lots conform with the city's layout upon annexation. Over the years, however, some cities have ignored the narrow scope of their statutory ETJ authority by enacting extralegal regulations affecting hundreds of square miles of ETJ land outside their boundaries. If left unchecked, some cities may try to apply unauthorized ETJ controls until the legislature clearly delineates what they can and cannot do outside their boundaries.

The law restricting forced annexation is straight forward and clear. As we move forward it is imperative that cities be held accountable to follow both the letter and the spirit of the law. As cities explore ways to annex land under the new statutes, including landowner and developer agreements, they must be upfront with landowners on the law and their respective rights. Cities have large budgets, experts and attorneys at their disposal, whereas many landowners do not. As such, any agreement proffered by cities to induce landowners to voluntarily annex or limit their land use rights in an ETJ must be clear, concise and written in a way that a layman can understand. They should not be misleading, obtuse or omit important information regarding a landowner's rights and remedies. In order to help ensure that landowners receive full and proper notice of their rights, the Legislature can help guarantee that by providing full transparency to landowners through the requirement that certain information regarding landowners' rights be clearly and concisely included in any proposed agreement. The Legislature could further stipulate that an agreement be void and unenforceable should such notice not be clearly articulated.

In conclusion, TAB appreciates the opportunity to comment on this important issue; thank you for your commitment to this issue and your work with all interested parties. As always, please do not hesitate to contact me should you have any questions or comments, and let our office know if there is anything TAB can do to assist you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ned Muñoz', is written over the word 'Sincerely,'.

Ned Muñoz  
V.P. of Regulatory Affairs and General Counsel



142 N. Ohio Drive • Celina, Texas 75009 • Phone 972.382.2682 • Fax 972.382.3736

May 22, 2020

Dear Agricultural Tax-Exempt Property Owner:

The City of Celina, Texas ("City") is requesting your feedback on whether you would prefer for your property to remain in the City's extraterritorial jurisdiction ("ETJ") or be included within the corporate city limits. The County Appraisal District records indicate that you own property with an agricultural tax exemption in the area detailed by the legal description and/or graphical depiction in Exhibit "A" to the proposed agreement enclosed with this letter ("Property"), and this is the Property we are writing about.

Under State law, the City may offer you an agreement that, among other things, provides terms for your Property to remain in the ETJ. State law also allows the City to inquire whether you want your Property to be annexed. Please know that the City has NOT instituted an annexation proceeding for your Property. If you no longer own the property we encourage you to contact Dusty McAfee with the City of Celina at [dmcafee@celina-tx.gov](mailto:dmcafee@celina-tx.gov) so that we may provide this notice to the current owner.

As part of our inquiry, the City would like to offer you the enclosed agreement to remain in the City's ETJ. The enclosed agreement provides that your Property will retain its extraterritorial status and not be annexed into the City for fifteen (15) years, or until any type of permit, subdivision plat or related development document is filed for the Property to be developed, whichever occurs first. While the property remains outside the city limits, it will not be subject to city property taxes, but it also will not receive tax-supported services from the City such as police, fire, EMS and other services.

The Director of Development Services, Dusty McAfee, and I both welcome the opportunity to discuss this proposed agreement and whether you would consent to annexation of the Property. If you wish for annexation to be instituted now, the City will provide you with a consent petition that complies with State law for execution. We can be reached at 972-382-2682 to discuss. You may also contact us by email at [dmcafee@celina-tx.gov](mailto:dmcafee@celina-tx.gov) or [jlaumer@celina-tx.gov](mailto:jlaumer@celina-tx.gov).

If you wish to remain in the ETJ for up to fifteen (15) years and desire to accept and execute the proposed agreement as presented, please execute it and return it to City of Celina, Attn: City Manager, 142 N. Ohio Dr., Celina, TX 75099, on or before **June 26, 2020**. Once received, the City will place the agreement on a City Council agenda for approval, then execute and file the document and return a file-stamped copy to you for your records. A failure to contact staff

by June 26, 2020 may result in the commencement of annexation proceedings.

We appreciate your time and consideration of this request.

Sincerely yours,

Jason Laumer, City Manager  
City of Celina

Enclosure: Development Agreement with Exhibit A and B attached

Sent via:

- certified mail



**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**CHAPTER 43 AND CHAPTER 212 TEXAS LOCAL GOVERNMENT CODE  
DEVELOPMENT AND SERVICES AGREEMENT**

This Agreement ("Agreement") is entered into pursuant to Sections 43.016 and 212.172 of the Texas Local Government Code by and between the City of Celina, Texas (the "City") and the undersigned property owner(s) (the "Owner"). The term "Owner" includes all owners of the Property.

**WHEREAS**, the Owner owns a parcel of real property in Collin County, Texas, legally described as Abstract No. A0387 in the J E Heath Survey, Tract 11, containing 6.205 acres, more or less, Collin County, Texas and more particularly described on Exhibit "A" attached hereto (the "Property"); and

**WHEREAS**, the City intends to begin the process to institute annexation proceedings on all or portions of Owner's Property in the near future; and

**WHEREAS**, the Owner desires to have the Property remain in the City's extraterritorial jurisdiction for a period of time, to avoid potential election for annexation and to voluntarily annex the Property in the future, in consideration for which the Owner agrees to enter into this Agreement; and

**WHEREAS**, this Agreement is entered into pursuant to Sections 43.016 and 212.172 of the Texas Local Government Code, in order to address the desires of the Owner and the procedures of the City; and

**WHEREAS**, the parties intend for this to be, pursuant to Section 43.0672 of the Texas Local Government Code, an agreement for municipal services with the specific services described in Exhibit "B" attached hereto; and

**WHEREAS**, the Owner requests and the parties desire the Property to be annexed at a future date under the conditions and using the Chapter 212 procedures specified herein; and

**WHEREAS**, the Owner and the City acknowledge that this Agreement is binding upon the City and the Owner and their respective successors and assigns for the Term (defined below) of this Agreement; and

**WHEREAS**, this Agreement is to be recorded in the Real Property Records of the county in which the Property is located.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:



**Section 1.** The City guarantees the continuation of the extraterritorial status of the Property, its immunity from annexation by the City, and its immunity from City property taxes, for the Term of this Agreement, subject to the provisions of this Agreement. Except as provided in this Agreement, the City agrees not to annex the Property. However, if the Property is annexed pursuant to the terms of this Agreement, then the parties agree that the City must provide services to the Property pursuant to Exhibit "B".

**Section 2.** The Owner covenants and agrees not to use the Property for any use other than for agriculture, wildlife management, and/or timber land consistent with Chapter 23 of the Texas Tax Code without the prior written authority of the City Council.

The Owner covenants and agrees that the Owner will not file any type of subdivision plat, permit for development or related development document for the Property, which includes but is not limited to seeking to create any special district (including but not limited to a Municipal Utility District, Fresh Water Supply District, Water Control and Improvement District, Municipal Management District, Public Improvement District, or any similar special district) within any part of the Property within the City's extraterritorial jurisdiction ("ETJ") including by seeking to file, or filing, any legislation or any application with the Texas Commission on Environmental Quality ("TCEQ") to create any such special district (a "Development Document"), until the Property has been annexed into, and zoned by, the City.

The Owner also covenants and agrees that the City's AG—Agricultural District zoning requirements apply to the Property, and that the Property shall be used only for AG—Agricultural District zoning uses during the Term. The Owner covenants and agrees not to construct, or allow to be constructed, any improvements or buildings on the Property that would require a permit or building permit if the Property were in the City limits, until the Property has been annexed into, and zoned by, the City; provided, however, the Owner may make improvements to the Property, after obtaining a building permit from the City, that meet the City's AG—Agricultural District zoning requirements. The Owner may maintain the single-family residence totaling approximately 2,682 square feet on the 1.00 acres designated as Land Segment #1 "Farm and Ranch Single Family" by Collin Central Appraisal District.

The Owner acknowledges that each and every owner of the Property must sign this Agreement in order for the Agreement to take full effect, and the Owner who signs this Agreement covenants and agrees, jointly and severably, to indemnify, hold harmless, and defend the City against any and all legal claims, by any person claiming an ownership interest in the Property who has not signed the Agreement, arising in any way from the City's reliance on this Agreement.

**Section 3.** The Owner acknowledges and stipulates that if any Development Document is filed, or if the Owner commences construction on or development of the Property not specifically allowed by Section 2, above, then in addition to the City's other remedies, such act will constitute Owner's consent and will constitute Owner's request to proceed with the annexation of the Property, even if the Term has not expired. The Owner agrees and stipulates that such annexation shall be voluntary, and the Owner hereby consents to such annexation. Pursuant to 212.172(b)(7) of the Local Government Code, the Owner and City agree that the procedures in Section 5, below, may be used by the City for the annexation in lieu of Local Government Code Chapter 43 procedures.

Owner further agrees that this Agreement fulfills requirements of Local Government Code Section 43.0672 and the municipal services shall be provided upon annexation as set forth in Exhibit "B" attached hereto. Furthermore, the Owner hereby waives any and all vested rights and claims that they may have under Section 43.002(a)(2) and Chapter 245 of the Texas Local Government Code that would otherwise exist by virtue of any actions Owner has taken in violation of Section 2 herein.

**Section 4.** Pursuant to Sections 43.016(b) of the Texas Local Government Code, Owner agrees that the City is authorized to enforce all of the City's regulations, permit requirements and planning authority applicable in its City limits to future improvements on the Property that do not materially interfere with the use of the Property for agriculture, wildlife management, or timber, in the same manner the regulations are enforced within the City's boundaries. City regulations that apply in its extraterritorial jurisdiction will continue to apply to the Property.

**Section 5.** The term of this Agreement (the "Term") is fifteen (15) years from the date that the City Manager's signature to this Agreement is acknowledged by a public notary. The Owner, and all of the Owner's heirs, successors and assigns shall be deemed to have executed and filed this Agreement as a petition for voluntary annexation before the end of the Term, for annexation of the Property to be completed on or after the end of the Term or when otherwise permitted hereunder. The City may, but is not required to, commence the voluntary annexation of the Property prior to the end of the Term.

Pursuant to 212.172(b)(7) of the Local Government Code, the Owner and City agree that the following procedures may be used by the City for any annexation in lieu of Local Government Code Chapter 43 procedures:

(a) Before adopting an ordinance annexing the Property, the governing body of the City must conduct one public hearing;

(b) During the public hearing, the governing body must provide persons interested in the annexation the opportunity to be heard;

(c) After the public hearing, the governing body may adopt an ordinance annexing the Property; and

(d) The City must post notice of the hearing on the City's Internet website and publish notice of the hearing in the official newspaper of the City. The notice for the hearing must be:

(1) mailed to the owner of the Property as indicated on the most recent certified tax roll;

(2) published at least once on or after the 20th day but before the 10th day before the date of the hearing; and

(3) posted on the City's Internet website on or after the 20th day but before the 10th day before the date of the hearing and must remain posted until the date of the hearing.

In connection with annexation pursuant to this section, the Owner hereby waives any vested rights they may have under Section 43.002(a)(2) and Chapter 245 of the Texas Local Government Code that would otherwise exist by virtue of any Development Document or construction any of the Owners may initiate during the time between the expiration of this Agreement and the institution of annexation proceedings by the City.

**Section 6.** Property annexed pursuant to this Agreement will initially be zoned AG – Agricultural pursuant to the City’s Code of Ordinances, pending determination of the property’s permanent zoning in accordance with the provisions of applicable law and the City’s Code of Ordinances.

**Section 7.** Any person who sells or conveys any portion of the Property shall, no later than 14 days prior to such sale or conveyance, give written notice of this Agreement to the prospective purchaser or grantee, and shall give written notice of the sale or conveyance to the City. Furthermore, the Owner and the Owner’s heirs, successor, and assigns shall give the City written notice within 14 days of any change in the agricultural exemption status of the Property. A copy of either notice required by this section shall be forwarded to the City at the following address:

City of Celina  
Attn: City Manager  
142 N. Ohio  
Celina, Texas 75009

**Section 8.** A certified copy of this Agreement shall be recorded in the real property records of the county in which this Property is located, and this Agreement, including all exhibits, shall constitute a covenant that runs with the Property that may only be released with the City’s written consent.

**Section 9.** If a court of competent jurisdiction determines that any covenant of this Agreement is void or unenforceable, including the covenants regarding involuntary annexation, then the remainder of this Agreement shall remain in full force and effect.

**Section 10.** This Agreement may be enforced by any Owner or the City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Agreement thereafter. Notwithstanding the preceding terms of this section, the City does not waive immunity from suit or liability.

**Section 11.** Owner and City acknowledge and expressly agree that no subsequent change in the law regarding annexation shall affect the enforceability of this Agreement or the City’s ability to annex the properties covered herein pursuant to the terms of this Agreement.

**Section 12.** The validity of this Agreement and any of its terms and provisions, as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be only in Collin County, Texas.

**Section 13.** This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and same instrument.

**Section 14.** This Agreement shall survive its termination to the extent necessary for the implementation of the provisions of Sections 2, 3, 4 and 11 herein.

**Section 15.** This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written, previous and contemporary agreements between the parties and relating to the matters in this Agreement and except as otherwise provided herein, cannot be modified without written agreement of the parties to be attached to and made a part of this Agreement.

**Section 16.** The determinations recited and declared in the preambles to this Agreement are hereby incorporated herein as part of this Agreement.

**Section 17.** All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

*Signature Page(s) Follow*

Entered into this \_\_\_\_ day of \_\_\_\_\_, 2020.

**CITY OF CELINA**

By: \_\_\_\_\_  
Name: Jason Laumer  
Title: City Manager  
Date: \_\_\_\_\_

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF COLLIN       §

This instrument was acknowledged before me on \_\_\_\_\_, 2020, by Jason Laumer, City Manager of the City of Celina, Texas on behalf of said City.

\_\_\_\_\_  
Notary Public in and for the State of TEXAS

**OWNER 1:** \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Owner  
Date: \_\_\_\_\_

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF \_\_\_\_\_   §

This instrument was acknowledged before me on \_\_\_\_\_, 2020, by \_\_\_\_\_ owner of said Property.

\_\_\_\_\_  
Notary Public in and for the State of TEXAS

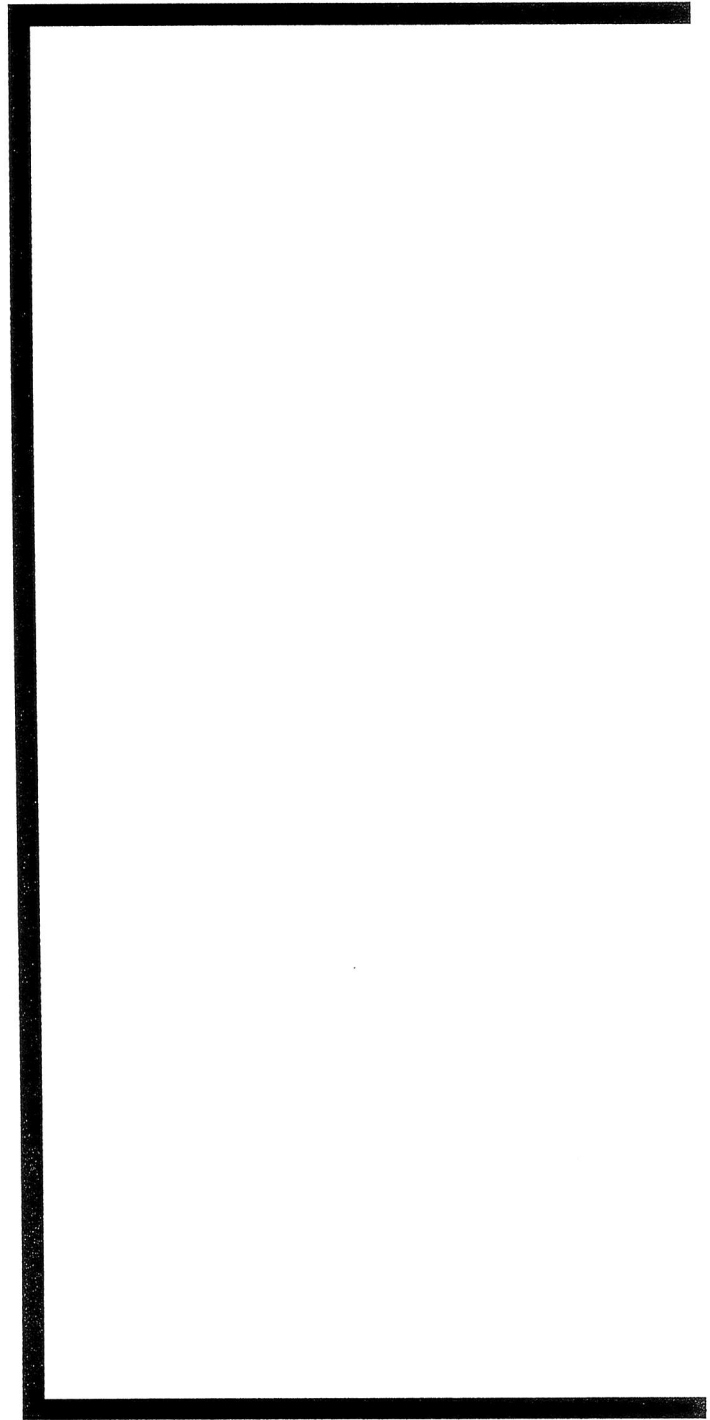
OWNER 2: [REDACTED]

By: \_\_\_\_\_  
Name: [REDACTED]  
Title: Owner  
Date: \_\_\_\_\_

THE STATE OF TEXAS           §  
  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on \_\_\_\_\_, 2020, by [REDACTED]  
[REDACTED] owner of said Property.

\_\_\_\_\_  
Notary Public in and for the State of TEXAS





**EXHIBIT "B"**  
**Agreement for Municipal Services (Service Plan)**

**A) MUNICIPAL SERVICES GENERALLY**

- 1) This agreement for municipal services has been prepared in accordance with the Texas Local Government Code ("LGC"), Section Sec. 43.0672. Municipal facilities and services to the annexed area will be provided or made available on behalf of the City of Celina in accordance with this agreement. The City of Celina shall provide the annexed tract the levels of service, infrastructure, and infrastructure maintenance that are comparable to the levels of service, infrastructure, and infrastructure maintenance available in other parts of the City of Celina with similar topography, land use, and population density.
- 2) For purposes of this service plan, to "provide" services includes having services provided by any method or means by which the City provides municipal services to any other areas of the City, and may include causing or allowing private utilities, governmental entities and other public service organizations to provide such services by contract or right, in whole or in part, and may include duties on part of the private landowner with regard to such services.

**B) EMERGENCY SERVICES**

**1) Police Protection**

- a) Police protection from the City of Celina Police Department shall be provided to the annexed area at a level consistent with current methods and procedures presently provided to similar areas on the effective date of the annexation ordinance. Some of these services include:
  - i) Normal patrol and responses;
  - ii) Handling of complaints and incident reports;
  - iii) Special units, such as traffic enforcement and investigations; and
  - iv) Coordination with other public safety support agencies.
- b) *As development commences in these areas, sufficient police protection, including personnel and equipment will be provided to furnish these areas with the level of police services consistent with the characteristics of topography, land utilization and population density of the areas.*
- c) Upon ultimate development, police protection will be provided at a level consistent with other similarly situated areas within the city limits.

**2) Fire Protection**

- a) The Celina Fire Department will provide emergency and fire prevention services to the annexed area. These services include:
  - i) Fire suppression and rescue;
  - ii) Pre-hospital medical services including triage, treatment and transport by Advanced Life Support (ALS) fire engines, trucks and ambulances;
  - iii) Hazardous materials response and mitigation;
  - iv) Emergency prevention and public education efforts;
  - v) Technical rescue response; and
  - vi) Construction Plan Review and required inspections.

- b) Fire protection from the City of Celina shall be provided to the annexed area at a level consistent with current methods and procedures presently provided to similar areas of the City of Celina on the effective date of the annexation ordinance.
- c) As development commences in these areas, sufficient fire protection, including personnel and equipment will be provided to furnish these areas with the level of services consistent with the characteristics of topography, land utilization and population density of the areas. It is anticipated that fire stations planned to service areas currently with the City of Celina will be sufficient to serve the annexed area.
- d) Upon ultimate development, fire protection will be provided at a level consistent with similarly situated areas within the city limits.

3) **Emergency Medical Services**

- a) The Celina Fire Department will provide emergency and safety services to the annexed area. These services include:
  - i) Emergency medical dispatch and pre-arrival First Aid instructions;
  - ii) Pre-hospital emergency Advanced Life Support (ALS) response; and transport; and
  - iii) Medical rescue services.
- b) Emergency Medical Services (EMS) from the City of Celina shall be provided to the annexed area at a level consistent with current methods and procedures presently provided to similar areas of the City of Celina on the effective date of the annexation ordinance.
- c) As development commences in these areas, sufficient EMS, including personnel and equipment, will be provided to furnish these areas with the level of services consistent with the characteristics of topography, land utilization and population density of the areas.
- d) Upon ultimate development, EMS will be provided at a level consistent with similarly situated areas within the city limits.

**C) SOLID WASTE**

- 1) Solid Waste and Recycling Collection Services will be provided to the annexed area immediately upon the effective date of the annexation at a level consistent with current methods and procedures presently provided to similar areas within the City. Private solid waste collection service providers operating in the affected area immediately prior to annexation and currently providing customers with service may continue to provide their existing service for up to two (2) years.

**D) WASTEWATER FACILITIES**

- 1) As development commences in these areas, sanitary sewer mains as defined by the Certificate of Convenience and Necessity (CCN) Number 20764, as issued by the Texas Commission on Environmental Quality (TCEQ) will be extended in accordance with the provisions of the City's codes, ordinances, regulations and policies. City participation in the costs of these extensions shall be in accordance with applicable City codes, ordinances, regulations and policies. Capacity and extensions shall be provided consistent with the characteristics of topography, land utilization and population density of the areas. If the annexed area is in the CCN of another provider, wastewater service shall be provided in accordance with the policies of the CCN holder. In some instances, the City might acquire the CCN rights and become the new wastewater provider, in time.
- 2) Sanitary sewer mains and lift stations installed or improved to City standards, and accepted by the City, within the annexed area which are located within dedicated

easement, rights-of-way, or any other acceptable location approved by the City Manager or his designee, shall be maintained by the City on the effective date of this ordinance.

- 3) Operation and maintenance of wastewater facilities in the annexed area that are within the certificated service area of another wastewater utility will be the responsibility of that utility. Operation and maintenance of private wastewater facilities in the annexed area will be the responsibility of the owner.

#### **E) WATER FACILITIES**

- 1) Connections to existing City of Celina water distribution mains for water service as defined by Certificate of Convenience and Necessity (CCN) Number 12667, as issued by the Texas Commission on Environmental Quality (TCEQ) will be provided in accordance with existing City codes, ordinances, regulations and policies. Upon connection to existing distribution mains, water service will be provided at rates established by city ordinance. If the annexed area is in the CCN of another provider, water service shall be provided in accordance with the policies of the CCN holder. In some instances, the City might acquire the CCN rights and become the new water provider, in time.
- 2) As development commences in these areas, water distribution mains will be extended in accordance with City of Celina codes, ordinances, regulations and policies. City participation in the costs of these extensions shall be in accordance with the City of Celina's codes, ordinances, regulations and policies. Water service extensions and capacity shall be provided consistent with the characteristics of topography, land utilization and population density of the area.
- 3) Operation and maintenance of existing water facilities in the annexed area that are within the service area of another water utility will be the responsibility of that utility. Operation and maintenance of private water facilities in the annexed area will be the responsibility of the owner.

#### **F) ROAD AND STREETS**

- 1) Emergency roadway/street maintenance shall be provided within the annexed area on the effective date of the applicable ordinance of acceptance. Routine maintenance will be provided within the annexed area and will be scheduled as part of the City's annual program and in accordance with the City's current codes, ordinances, regulations, policies and procedures defined therein and/or as established by the City Council. Private roads/streets and drives shall remain private and not be improved, reconstructed, maintained or serviced by the City.
- 2) Any construction or reconstruction will be considered within the annexed area on a City-wide basis and within the context of the City's Capital Improvement Plan and/or yearly fiscal budgetary allotments by the City Council. As development, improvement or construction of roads/streets to City standards commences within the annexed area, the policies of the City of Celina with regard to participation in the costs thereof, acceptance upon completion and maintenance after completion shall apply.
- 3) Roadway/street signage and associated posts will be replaced in priority of importance starting with regulatory signs, then warning signs, then informational signs and in conformance with fiscal allotments by the City Council. If a sign remains, it will be reviewed and placed on the City's inventory listed for routine re-placement. All existing signs will be reviewed for applicability and based upon an engineering study. New signs will be installed when necessary and based upon an engineering study.
- 4) Routine maintenance of road/street markings will be placed on a priority listing and scheduled within the yearly budgetary allotments by the City Council.
- 5) The City will coordinate any request for improved road and street lighting with the local

electric provider. Any and all road and street lighting will be pursuant to the rules, regulations and fees of such electric utility and shall be maintained by the applicable utility company.

**G) ENVIRONMENTAL HEALTH, INSPECTIONS AND CODE ENFORCEMENT SERVICES**

- 1) Enforcement of the City's environmental health ordinances and regulations, including but not limited to, weed and brush ordinances, junked and abandoned vehicle ordinances and animal control ordinances, shall be provided within this area sixty (60) days of the effective date of the annexation ordinance. These ordinances and regulations will be enforced through the use of existing personnel.
- 2) Inspection services including the review of building plans, the issuance of permits and the inspection of all buildings, plumbing, mechanical and electrical work to ensure compliance with City codes and ordinances will be continued to be provided after the effective date of the annexation ordinance. Existing personnel will be used to provide these services.
- 3) The City's zoning, subdivision, sign and other ordinances shall be enforced in this area beginning upon the effective date of the annexation.
- 4) All inspection services furnished by the City of Celina, but not mentioned above, will be provided to this area beginning within sixty (60) days of the effective date of the annexed ordinance.
- 5) As development and construction commence in this area, sufficient personnel will be provided to furnish this area the same level of environmental health, inspection and code enforcement services as are furnished throughout the City.

**H) PLANNING AND ZONING SERVICES**

- 1) The Planning and zoning jurisdiction of the City will extend to this area upon the effective date of the annexation ordinance. City planning will thereafter encompass this property, and it shall be entitled to consideration for zoning in accordance with the City's Zoning Ordinance and Comprehensive Plan.

**I) PARKS, PLAYGROUNDS, LIBRARIES, SWIMMING POOLS**

- 1) Residents within the annexed area may utilize all existing park and recreation facilities, on the effective date of this ordinance. Fees for such usage shall be in accordance with current fees established by ordinance.
- 2) As development commences in the area, additional park and recreation facilities shall be constructed based on park policies defined in the Park Master Plan and as specified in the Park Dedication Ordinance. The general planned locations and classifications of parks will ultimately serve residents from the current City limits and residents from areas being considered for annexation.

**J) PUBLICLY OWNED FACILITIES**

- 1) Any publicly owned facility, building, or service located within the annexed area, and not otherwise owned or maintained by another governmental entity, shall be maintained by the City of Celina on the effective date of the annexation ordinance.

**K) OTHER SERVICES**

- 1) Other services that may be provided by the City of Celina, such as municipal and general administration will be made available on the effective date of the annexation. The City of Celina shall provide levels of service, infrastructure, and infrastructure maintenance that are comparable to the levels of services, infrastructure, and infrastructure maintenance available in other parts of the City of Celina with similar topography, land use, and

population density similar to those reasonably contemplated or projected in the area.

**L) UNIFORM LEVEL OF SERVICES IS NOT REQUIRED**

- 1) Nothing in this Service Plan shall require the City of Celina to provide a uniform level of full municipal services to each area of the City, including the annexed areas, if different characteristics of topography, land use, and population density are considered a sufficient basis for provided different levels of service. The City Council finds and determines that this Service Plan will not provide any fewer services, and it will not provide a lower level of services, than were in existence in the annexed area at the time immediately preceding the annexation process.
- 2) The City of Celina's codes, ordinances, regulations and policies that apply throughout the City may be reviewed at City Hall and at <http://www.franklinlegal.net/codes.html>.

**M) TERM**

- 1) This Service Plan shall be valid for a term of ten (10) years. Renewal of the Service Plan shall be at the discretion of the City Council and must be approved by ordinance.

**N) AMENDMENTS**

- 1) This Service Plan may be amended if the City Council determines at a public hearing that changed conditions or subsequent occurrences make this Service Plan unworkable or obsolete. The City Council may amend the Service Plan to conform to the changed conditions, subsequent occurrences or any other legally sufficient circumstances exist pursuant to the LGC or other Texas or Federal laws that make this service plan unworkable, obsolete or unlawful.





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President

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**VAL STEPHENS**  
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Poteet

**ALLEN KAMINSKI**  
Sealy

**ZACHARY X. YANTA**  
Runge

**SCOTT FRAZIER**  
Chapman Ranch

August 17, 2020

The Honorable Tom Craddick  
Chair, House Committee on Land & Resource Management  
Texas House of Representatives  
Post Office Box 2910  
Austin, Texas 78768-2910

RE: Interim Charge #1 of the House Land & Resource Management Committee's  
Interim Charges of the 86<sup>th</sup> Legislature

Dear Mr. Speaker and Committee Members:

Texas Farm Bureau appreciates the opportunity to share our comments on the committee's interim charge to conduct oversight and ensure intended legislative outcomes of HB 347, which prohibits cities from using forced annexation.

A core value to Texas Farm Bureau members is the importance of private property rights. Our booming population often creates issues of urban sprawl, driving land out of agriculture through burdensome land use regulations that constrain the economic viability of our operations.

Texas Farm Bureau supported the passage of HB 347 to end forced annexation for all property owners by allowing all counties a right to vote. We supported the statutory changes initiated in 2017 through SB 6 and agree that they should apply across the board, regardless of county population.

Since last session, Texas Farm Bureau has become aware of a situation in North Texas in which non-development agreements were sent to agricultural property owners within the ETJ of the City of Celina. The non-development agreement provides terms for remaining in the city's ETJ for a limited term of up to 15 years and contends that by accepting the agreement the property owner is requesting voluntary annexation and surrendering their right to an election. **Note: this development agreement can be provided to committee offices upon request. It was not included in our comments due to page limitations.**

The non-development agreement was presented by the city through an introductory letter (included below) which begins by asking recipients for feedback indicating whether they prefer to remain in the city's ETJ or be included within the corporate city limits. The development agreement is offered exclusive of any other means to remain

unannexed the city. The letter concludes by instructing property owners to sign the development agreement to remain in the ETJ and states that failure to contact the city may result in commencement of annexation proceedings.

Texas Farm Bureau members initiated the current law with their legislators to avoid annexation of open-space land. Cities are required to offer agricultural property owners the option of signing a non-development agreement to avoid annexation. Under these agreements, agricultural property owners agree to continue using the property for agriculture. It was not the intent of the law to create an avenue for agricultural property owners to forego their rights to vote on annexation of their property in the future.

Celina's proposal of this non-development agreement seems to deliberately divest property owners of their rights granted by SB 6 and HB 347. It's drafted to suggest that property owners need to sign the agreement otherwise they will be exposed to involuntary annexation. At the very least, this example showcases a means by which a property owner's right to consent to annexation can be withheld, hidden, or confused by an entity seeking jurisdictional power.

Texas Farm Bureau believes that the actions by the City of Celina thwart the intent of the legislation passed through this committee in the 85<sup>th</sup> and 86<sup>th</sup> Legislative Sessions, and we're further concerned by Celina's use of a non-development agreement as a tool to circumvent the rights of agriculture and wildlife property owners.

We would recommend the committee research this issue to determine if current law needs to be amended to make it clear that these non-development agreements cannot be used to take away agricultural property owners' rights under SB 6 or HB 347.

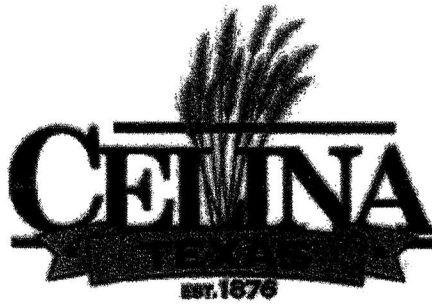
Thank you again for the opportunity to raise these concerns with the Committee. We have communicated with the offices of Chairman King, as well as Representative Holland and Representative Sanford to loop them in as well. Please do not hesitate to contact us with any questions.

Sincerely,

A handwritten signature in black ink that reads "Marissa Patton". The script is cursive and fluid, with the first name "Marissa" and last name "Patton" clearly distinguishable.

Marissa Patton  
Associate Legislative Director





142 N. Ohio Drive • Celina, Texas 75009 • Phone 972.382.2682 • Fax 972.382.3736

May 22, 2020

Dear Agricultural Tax-Exempt Property Owner:

The City of Celina, Texas ("City") is requesting your feedback on whether you would prefer for your property to remain in the City's extraterritorial jurisdiction ("ETJ") or be included within the corporate city limits. The County Appraisal District records indicate that you own property with an agricultural tax exemption in the area detailed by the legal description and/or graphical depiction in Exhibit "A" to the proposed agreement enclosed with this letter ("Property"), and this is the Property we are writing about.

Under State law, the City may offer you an agreement that, among other things, provides terms for your Property to remain in the ETJ. State law also allows the City to inquire whether you want your Property to be annexed. Please know that the City has NOT instituted an annexation proceeding for your Property. If you no longer own the property we encourage you to contact Dusty McAfee with the City of Celina at [dmcafee@celina-tx.gov](mailto:dmcafee@celina-tx.gov) so that we may provide this notice to the current owner.

As part of our inquiry, the City would like to offer you the enclosed agreement to remain in the City's ETJ. The enclosed agreement provides that your Property will retain its extraterritorial status and not be annexed into the City for fifteen (15) years, or until any type of permit, subdivision plat or related development document is filed for the Property to be developed, whichever occurs first. While the property remains outside the city limits, it will not be subject to city property taxes, but it also will not receive tax-supported services from the City such as police, fire, EMS and other services.

The Director of Development Services, Dusty McAfee, and I both welcome the opportunity to discuss this proposed agreement and whether you would consent to annexation of the Property. If you wish for annexation to be instituted now, the City will provide you with a consent petition that complies with State law for execution. We can be reached at 972-382-2682 to discuss. You may also contact us by email at [dmcafee@celina-tx.gov](mailto:dmcafee@celina-tx.gov) or [jlaumer@celina-tx.gov](mailto:jlaumer@celina-tx.gov).

If you wish to remain in the ETJ for up to fifteen (15) years and desire to accept and execute the proposed agreement as presented, please execute it and return it to City of Celina, Attn: City Manager, 142 N. Ohio Dr., Celina, TX 75099, on or before **June 26, 2020**. Once received, the City will place the agreement on a City Council agenda for approval, then execute and file the document and return a file-stamped copy to you for your records. A failure to contact staff

by June 26, 2020 may result in the commencement of annexation proceedings.

We appreciate your time and consideration of this request.

Sincerely yours,

Jason Laumer, City Manager  
City of Celina

Enclosure: Development Agreement with Exhibit A and B attached

Sent via:

- certified mail



August 13, 2020

The Honorable Tom Craddick  
Chairman  
Committee on Land and Resource Management  
P.O. Box 2910  
Austin, TX 78768-2910

SEND VIA EMAIL: Tom.Craddick@House.Texas.Gov

Dear Chairman Craddick,

On behalf of the Texas Mayors of Military Communities ("TMMC"), I am providing written comments and recommendations for the House Committee on Land and Resource Management Interim Study Charges related to municipal annexation authority near Texas military installations. ***The TMMC encourages the Committee to retain and protect all existing local land use authority in the areas around Texas military bases.*** The Committee may also find it beneficial to conduct a more comprehensive review of land use authority in and around Texas military bases, including a complete review of the impact of the recent changes to municipal annexation authority in the Texas Local Government Code.

Formed in 2014, the TMMC is a 501c (4) nonprofit corporation formed to educate the Texas Legislature and public about the needs and benefits of communities that host military installations. TMMC consist of defense communities hosting the 15 military installations and the Army Futures Command located in more than 30 Texas cities and counties: Abilene, Austin, Bryan, Corpus Christi, Del Rio, El Paso, Fort Worth, Houston, Killeen, Kingsville, San Angelo, San Antonio, Texarkana, and Wichita Falls. The TMMC member communities invest heavily in helping protect the military missions of these bases for the entirety of the State of Texas. The Texas Military Preparedness Commission recently stated in their Biennial Report<sup>1</sup> ***the economic impact of Texas military installations in 2019 was approximately \$123.6 billion and that more than 227,000 active duty and civilian personnel and contractors call Texas defense communities home.***

***One of the TMMC's highest priorities is protecting these installations from encroachment and development which could impact missions and restrict critical operations.*** Municipal governments

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<sup>1</sup> See full Texas Military Preparedness Commission 2019-20 Biennial Report at <https://gov.texas.gov/uploads/files/organization/military/TMPC-Biennial-Report-2019-2020.pdf>

have been indispensable partners to Texas military installations by enacting and enforcing land use planning and zoning regulations, building codes and development regulations within municipal boundaries, as well as, when necessary, the power of non-voluntary annexation in extraterritorial jurisdictions. During a Special Session in 2017, the 85<sup>th</sup> Texas Legislature enacted Senate Bill 6, which created two tiers of municipal annexation authority based on population. In 2019, the 86<sup>th</sup> Texas Legislature enacted House Bill 347 which eliminated the tier system and now requires all municipal annexations to be approved by voters in the areas to be annexed. The effect of significantly limiting municipal annexation authority, coupled with very limited land use controls municipalities can exercise in the extraterritorial jurisdiction (“ETJ”), warrants the full review of land use controls and their effectiveness in dealing with the unique land use and encroachment situations that arise around our Texas military installations.

Until 2017, a Texas defense community could rely on the ability annex areas in its extraterritorial jurisdictions and apply planning and zoning regulations, establish building codes and development buffers to prevent building in areas critical to the operations of the installation. As Texas generally and defense communities specifically continue to grow, we are certain these pressures for development conflicts in and around our Texas military bases will continue to exist as well.

In recent years Texas military installations have faced a number of challenging land use and encroachment issues that have impacted training operations, future expansion plans, and raise some concerns about long-term viability of certain missions. Wind energy development in Texas (and throughout the Country) has been a major source of problems and concerns for operations and training at Texas military bases. Texas currently has four aviation training installations (two Navy and two Air Force) which have primarily relied on their partnerships with their host defense communities to combat incompatible or dangerous developments in training and operations corridors. Similarly, incompatible residential or commercial construction in a municipality’s extraterritorial jurisdiction can impact the ability of some military installations to perform their duties critical to national defense. Issues related to lighting, noise, environmental controls, utility infrastructure, and traffic congestion, among others, are all impacted by the various aspects of land use controls around Texas military bases. TMMC would like to help ensure Texas defense communities, not only have the necessary land use and development tools to protect existing Texas military installations and missions, but also to attract new missions and military presence to Texas.

With the prospect of a future round of Base Re-alignment and Closure (“BRAC”) or similar evaluation process, such encroachments could jeopardize the future of those impacted installations or missions. Unfortunately, Texas has lost bases and missions to BRAC processes in the past. TMMC is committed to ensuring that does not occur in Texas again. Annexation authority was a central part of the land use and development system used for decades to protect the balance of interests in and around Texas military bases. Since significant reforms have now been made that limit its applicability, ***TMMC would urge the Legislature, along with all appropriate Committees, to undertake a full review of the effectiveness of all of the various land use, development, and safety provisions available to local governments to manage the area in and around our vital Texas bases.*** Specifically, the TMMC would encourage a review of Chapter 43 annexation authority in the ETJ that includes a military installation, Chapter 241 Airport Zoning Boards, Chapter 397A Regional Military Sustainability Commission, and all other applicable Local Government provisions and state statutes impacting land use, development

compatibility, and encroachment issues. Ensuring Texas has the right balance of tools to deal with these ongoing issues will be critical to preserving the future and vitality of Texas military bases and missions.

The TMMC respectfully requests that its comments and recommendations be included in the Committee' Interim Report to the 87<sup>th</sup> Texas Legislature. Our members welcome the opportunity to visit with Committee members and staff to discuss relevant policy issues impacting military operations in Texas. Thank you again for the opportunity to discussion these important issues and to highlight the important partnership that exists between local governments and our Texas military installations.

Sincerely,

A handwritten signature in black ink, appearing to read "J. G. Ayala". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Juan G. Ayala  
Major General (USMC Retired)  
President  
Texas Mayors of Military Communities



TEXAS MUNICIPAL LEAGUE  
*Empowering Texas cities to serve their citizens*

---

President Eddie Daffern, Mayor, Staples  
Executive Director Bennett Sandlin

August 11, 2020

The Honorable Tom Craddick  
Chairman, House Committee on Land and Resource Management  
Texas House of Representatives  
P.O. Box 2910  
Austin, TX 78768-2910  
Via E-Mail: Tom.Craddick@House.Texas.Gov

**Re: Texas Municipal League Comments on Annexation Interim Charge No. 1:** *Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure intended legislative outcome of all legislation, including HB 347, which eliminates the distinction between Tier 1 and Tier 2 counties and municipalities so that all cities are prohibited from using forced annexation. Determine if there is a need for further annexation legislation in Texas. Study how implementation of voter-approved annexation impacts the need for extraterritorial jurisdiction.*

Dear Chairman Craddick:

The Texas Municipal League (TML) is a non-profit association of 1,161 incorporated cities. TML provides legislative, legal, and educational services to its members. Thank you for the opportunity to provide written comments on the above-mentioned interim charge during the Coronavirus pandemic. Please accept our input on the following aspects of the charge: (1) the need for legislation to fix a minor, apparently-unintended consequence caused by H.B. 347; (2) the prohibition against forced annexation; and (3) the continuing need for extraterritorial jurisdiction (ETJ).

#### **Crossing the Street**

While H.B. 347 from last session eliminated unilateral annexation by any city, the law still allows for annexation at the request of a property owner. These “voluntary” annexations are fairly common. They usually happen when a property owner either: (1) seeks the certainty of being inside a city’s limits (e.g., protection from nuisances or detrimental land uses); and/or (2) seeks city services that aren’t available outside the city’s limits (e.g., water or wastewater or police or fire protection).

Property to be annexed must be in a city’s ETJ and must touch the existing city limits. Most agree that a city may not annex “islands” of municipal territory. It is very common that a petitioner’s property is across a road or a short distance from the existing city limits.

For over a century, that’s never been a problem. A home rule city could have included the road pursuant to the unilateral annexation authority granted by its charter, and a general law city had a statute (Local Government Code Sec. 43.103) allowing it to include the road. However, H.B. 347 took both away.

Here's the only way a city can cross a road now:

Local Gov't Code Sec. 43.1055. ANNEXATION OF ROADS AND RIGHTS-OF-WAY. Notwithstanding any other law, a municipality may by ordinance annex a road or the right-of-way of a road on request of the owner of the road or right-of-way or the governing body of the political subdivision that maintains the road or right-of-way under the procedures prescribed by Subchapter C-1.

The Texas Department of Transportation (TxDOT) has indicated that it won't usually petition a city to include a state highway. Whether county commissioners courts across the state will do so is unclear. Current law also allows an intervening railroad to essentially veto a landowner's request.

The inadvertent repeal of prior laws, along with the adoption of the section above, thwarts a landowner's ability to come into a city. We would simply ask to reinsert the authority for a city to bring in a landowner who wants to be annexed by making the area contiguous to the city limits. We are currently working with TxDOT and members to come to an agreement on language to do so.

#### **Prohibition against Forced Annexation**

History has shown that the state's grant of broad annexation power to Texas' home rule cities had always been one of our least understood and most contentious governance issues. It is also one of the most important from the perspective of how the state has dealt with its massive population growth. Cities support the state's economy through the services and growth management they provide. In fact, as recently-lauded by the governor's office, *Business Facilities Magazine* ranked 16 Texas cities and MSAs in the top ten of its annual "State and Metro Rankings Report." City officials are resilient. Even without annexation as a tool, they will continue to support their residents, the region around them, and the state economy.

#### **The Continuing Need for Extraterritorial Jurisdiction**

Some have argued that, because a city can no longer annex without consent, ETJ is now superfluous. Nothing could be further from the truth. While ETJ was created in 1963 with the intent of "staking out" where a city could annex, it has many other benefits. Cities can exercise limited, but important, powers in the ETJ. For example, this is a non-exhaustive list of their authority:

- Local Government Code 217.042 – Home rule city can define and abate nuisance within 5000 feet of city limits, with certain limitations.
- Local Government Code 212.003(a) – Subdivision Regulations.
- Local Government Code 216.003 – Billboards.
- Local Government Code 401.002 – Watershed protection.
- Local Government Code 402.001 – Utilities, if the city provides water, sewer, or electric service to the residents of the ETJ.
- Local Government Code 402.041 – Drainage Utility Systems.
- Water Code 26.177 – Pollution Control and abatement programs.
- Tax Code 351.002 – Cities under 35,000 can extend hotel occupancy tax to ETJ.

The limited authority above allows a city to at least lessen the detrimental effects of development on regional and municipal residents. Remember this: Texas – contrary to popular lore – is not a rural state. According to the U.S. Census Bureau, seventy-four percent of Texas residents live in incorporated cities (of which there are 1,215) and 89 percent of Texans live in urban areas. State leaders should consider those figures when considering what's best for Texas.



**Prayer**

TML respectfully requests that your office consider these comments when issuing your interim report.

Please contact me if I may be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'SH' followed by a stylized flourish.

Scott Houston  
*Deputy Executive Director & General Counsel*  
*Texas Municipal League*  
*1821 Rutherford Lane, Suite 400*  
*Austin, Texas 78754*  
*512-231-7464*  
*shouston@tml.org*



# Texas Public Policy Foundation

## Testimony Before the House Committee on Land & Resource Management: Interim Charge 1

By Shelby Sterling, J.D.

Mr. Chairman and Members of the Committee:

My name is Shelby Sterling, and I am a policy analyst at the Texas Public Policy Foundation. Thank you for the opportunity to provide written testimony to the committee on Interim Charge No. 1, which reads as follows:

Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure intended legislative outcome of all legislation, including **HB 347**, which eliminates the distinction between Tier 1 and Tier 2 counties and municipalities so that all cities are prohibited from using forced annexation. Determine if there is a need for further annexation legislation in Texas. Study how implementation of voter-approved annexation impacts the need for extraterritorial jurisdiction.

My written remarks below will address the need for further annexation legislation in Texas and the ways in which voter-approved annexation has impacted the need for an extraterritorial jurisdiction (ETJ) moving forward.

### Further Annexation Legislation Needed

With the passage of the 85th session's Senate Bill 6 and the 86th session's House Bill 347, state law now requires municipalities to secure voter approval before annexing property owners residing outside of a city's corporate boundaries. This was a historic change deserving of high praise. It has fundamentally transformed city governance for the better.

However, eliminating the practice of involuntary annexation should be seen as a first step. Still more changes are needed to improve the system.

*Require Cities to Wait a Minimum of 5 Years Before Attempting to Annex the Same Property.* One beneficial change that should be considered is requiring a cooling-off period between elections. Under current law, if a majority of voters reject a municipality's proposed annexation at the ballot box, those same residents could be asked to vote on the same question as soon as one year later. Per Section 43.0697 of the Local Government Code:

(b) If at the election held under this subchapter a majority of qualified voters do not approve the proposed annexation, or if the municipality is required to petition owners of land in the area under Section 43.0695 and does not obtain the required number of signatures, **the municipality may not annex the area and may not adopt another resolution under Section 43.0692 to annex the area until the first anniversary of the date of the adoption of the resolution.** [emphasis mine]

State lawmakers should not allow annexation elections to occur so close together. Both cities and nonresidents deserve to have a longer period after a failed election to absorb the results and reassess the situation. Requiring cities to wait 5 years or longer after a failed annexation election would be more appropriate.



# Texas Public Policy Foundation

*Better Balance Resident Choice With City Power in the Disannexation Process.* Another change to consider is leveling the playing field with respect to the disannexation process.

Section 43.141 of the Local Government Code outlines the process by which annexed residents may seek to disentangle themselves from a city. It is a cumbersome and difficult process that appears weighted against those seeking freedom from government. For example, consider that state law currently requires the petition for disannexation to:

- (1) be written;
- (2) request the disannexation;
- (3) be signed in ink or indelible pencil by the appropriate voters;
- (4) be signed by each voter as that person's name appears on the most recent official list of registered voters;
- (5) contain a note made by each voter stating the person's residence address and the precinct number and voter registration number that appear on the person's voter registration certificate;
- (6) describe the area to be disannexed and have a plat or other likeness of the area attached; and
- (7) be presented to the secretary of the municipality.

In addition, petitioners must also adhere to certain notification requirements, like "posting a copy of the petition for 10 days in three public places in the annexed area and ... publishing a copy of the petition once in a newspaper of general circulation serving the area before the 15th day before the date the petition is first circulated." What's more, the city secretary must be presented with proof of the posting and the publication as attachments to the petition in the form of:

- (1) the sworn affidavit of any voter who signed the petition, stating the places and dates of the posting; and
- (2) the sworn affidavit of the publisher of the newspaper in which the notice was published, stating the name of the newspaper and the issue and date of publication.

The process of disannexing an area from a city is cumbersome and complex. It may even be unnavigable for anyone except those with legal aid and significant financial resources. The average Texan deserves to have a better system in place so that, if the need arises and fellow voters consent, the oppressed have a realistic way out.

## **Voter-Approved Annexation Demands ETJ Reform**

In light of the Legislature's decision to eliminate involuntary annexation and require consent, the scope and utility of the ETJ concept have also changed. This new relationship should lead to a reevaluation of the concept as a whole.

*Rethink Municipal Regulatory Authority in the ETJ.* Under current law, cities can exercise certain regulatory authority in the ETJ—including plat and subdivision regulatory authority; sign location and removal; creation powers over industrial districts, planned unit development districts, and municipal drainage utility systems; and the imposition of impact fees for water and wastewater facilities and storm water, drainage, and flood control facilities. These expansive powers raise serious questions about "regulation without representation."



# Texas Public Policy Foundation

After all, those residing within a city's ETJ must comply with municipal authority, even though they did not elect nor can they democratically influence their city governors. Worse yet, a person may theoretically reside in an ETJ in perpetuity, potentially never having the opportunity to participate in city elections. Such a deprivation is inconsistent with the rights guaranteed under the U.S. and Texas constitutions.

Americans have a constitutionally protected right to representative government. Consider Article IV, Section 4 of the U.S. Constitution, which states:

The United States shall guarantee to every State in this Union a Republican Form of Government...

The Texas Constitution is equally clear and forthright. Article I, Section 2 states:

All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. **The faith of the people of Texas stands pledged to the preservation of a republican form of government**, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient. [emphasis mine]

Given these assurances, allowing municipalities to wield extensive powers against people without their consent makes little sense. State lawmakers would do well to conduct a comprehensive review of municipal regulatory authority in the ETJ and eliminate as much as possible. Similarly, the Legislature could also pass legislation prohibiting cities from exercising authority in the ETJ unless explicitly authorized by state law.

*Reconsider Allowing Cities to Impose Fees and Fines in the ETJ.* Under current law, cities can impose fines and fees on ETJ residents even when the area has been disannexed or voters rejected an attempt at annexation through election as required by state law. This authority should be reconsidered.

ETJ residents should not be obligated to contribute financially to a city that they have intentionally extricated themselves from or that has been spurned at the ballot box. Those residents ought to be able to keep their hard-earned money.

To recap, the Texas Public Policy Foundation urges the Texas House Committee on Land & Resource Management to make the following recommendations in its final report:

- Require cities to wait a minimum of 5 years before attempting to annex the same property;
- Better balance resident choice with city power in the disannexation process;
- Eliminate municipal regulatory authority in the ETJ to the greatest extent possible; and
- Reconsider allowing cities to impose fees and fines in the ETJ.

Thank you for your time and consideration.



# Texas Public Policy Foundation

## Resources

Arch Resorts, LLC v. City of McKinney Amicus Brief, Texas Public Policy Foundation (May 11, 2016).

City Limits: What Is an ETJ Good For?, Texas Public Policy Foundation (January 10, 2019).

City of McKinney v. Custer Storage, No. 05-17-00546-CV (Tex. App.-Dallas 2018).

House Bill 347: Testimony Before the Texas House Committee on Land & Resource Management, Texas Public Policy Foundation (March 5, 2019).

House Bill 3417: Testimony Before the Texas House Committee on Land & Resource Management, Texas Public Policy Foundation (April 2, 2019).

Senate Bill 1303: Testimony Before the Texas Senate Committee on Intergovernmental Relations, Texas Public Policy Foundation (March 25, 2019).

Toward Annexation With Representation, Texas Public Policy Foundation (February 2018).

Town of Lakewood Village v. Bizios, 493 S.W.3d 527, 530 (Tex. 2016).

## ABOUT THE AUTHOR



**Shelby Sterling, J.D.**, is a policy analyst for the Government for the People campaign at Texas Public Policy Foundation. She was previously an intern in the Foundation's Center for the American Future. Sterling has a J.D. from Texas A&M University School of Law in Fort Worth.

She participated in the law school's residency externship program and graduated with a concentration in public policy. Sterling received her B.A. in Letters from the University of Oklahoma, a combination study of philosophy, history, and literature on the U.S. Constitution and the Founding Fathers.

## About Texas Public Policy Foundation

The Texas Public Policy Foundation is a 501(c)3 non-profit, non-partisan research institute. The Foundation's promotes and defends liberty, personal responsibility, and free enterprise in Texas and the nation by educating and affecting policymakers and the Texas public policy debate with academically sound research and outreach.

Funded by thousands of individuals, foundations, and corporations, the Foundation does not accept government funds or contributions to influence the outcomes of its research.

The public is demanding a different direction for their government, and the Texas Public Policy Foundation is providing the ideas that enable policymakers to chart that new course.



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August 14, 2020

The Honorable Tom Craddick  
Chair, Committee on Land and Resource Management  
Texas House of Representatives  
P.O. Box 2910  
Austin, TX 78768

Chairman Craddick,

On behalf of the Texas REALTORS®, I respectfully submit the following comments related to the Committee on Land and Resource Management's Interim Charge #1, as follows:

*Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure intended legislative outcome of all legislation, including HB 347, which eliminates the distinction between Tier 1 and Tier 2 counties and municipalities so that all cities are prohibited from using forced annexation. Determine if there is a need for further annexation legislation in Texas. Study how implementation of voter-approved annexation impacts the need for extraterritorial jurisdiction.*

Texas REALTORS® and their clients continue to be grateful to the Texas Legislature, and especially to the dedicated work of the Land and Resource Management Committee, that lead to the passage of 2017's Senate Bill 6 and 2019's House Bill 347, effectively ending the un-Texan practice of forced municipal annexation. In the year since H.B. 347's enactment, property owners around the state have breathed a little easier knowing their hard-earned land will not be suddenly subject to incorporation by a nearby city.

Texas REALTORS® continues to remain vigilant in defense of private property rights and following the end of forced annexation, are keeping a close eye on the rights of landowners in municipal extra-territorial jurisdictions. Regulatory authority in those jurisdictions is rightly limited by law, but limits may unfortunately be stretched. We respectfully request the Texas Legislature continue to ensure that those limits are thoroughly enforced in the short-term, and that the ETJs as a whole be carefully evaluated to ensure their efficacy and uphold property rights in the long-term.

Texas REALTORS® appreciates the opportunity to comment on this important charge. As ever, we are honored to be a partner and resource to you and your Committee, and the entire Texas Legislature, on critical issues such as this. We are always available to answer any questions or address concerns; please let us know if we can be of any assistance.

Respectfully,

Julia Parenteau  
Director of Public Policy  
Texas REALTORS®  
(512) 751-2028  
julia@texasrealtors.com



# Travis County Fire Rescue

## Emergency Service Districts 11/15

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**Ken Bailey**  
Fire Chief

August 14, 20208

9019 Elroy Road  
Del Valle, TX 78617  
512.243.3477 - O  
512.243.1950 - F  
512.563.4784 - M

Texas Land & Resource Management  
Attention: Chairman Tom Craddick  
Room EXT E2.136  
Austin, Texas 78768

Re: Annexation

Chairman Tom Craddick,

Chairman Craddick and committee members, thank you for allowing me to provide testimony in regard to Interim Charge #1, specifically, whether there is a need for further annexation legislation. We are extremely grateful for the legislation passed by your committee and the legislature two sessions ago, but we believe that there is still an opportunity for improvement.

My name is Ken Bailey and I am the Fire Chief of Travis County Fire Rescue, a collaborative effort of ESD's 1, 11 & 15, serving Southeast Travis County and parts of Hays and Caldwell County. We have a long history of providing quality emergency services to our residents.

We supported previous annexation legislation, which gave property owners the right to vote whether or not they wish to be annexed by a city. However, due to pre-existing strategic partnerships agreements (SPA) this does not equally apply to people who purchase homes or land within many municipal utility districts. These SPA's effectively negate a homeowner's ability to decide if they want to be annexed into a city or not.

This loophole creates a situation where homeowners within a municipal utility district (M.U.D.), who took on the tax burden of paying off the M.U.D. debt over time, having done so to the benefit of the city acquiring the M.U.D.'s infrastructure upon annexation but without any voice or influence as to whether or not they wish to be annexed into said city. This creates a real problem for property owners who are under the understanding that they have a vote on whether to annex, but instead are told, potentially many years after purchasing their property, that they are being annexed by a city without a vote.



We would appreciate legislation that grants all Texas property owners, including those within a M.U.D., the right to vote on whether or not they wish to be annexed into a city.

Please do not hesitate to contact me if you have questions or would like further information.

Sincerely,

Ken Bailey

August 14, 2020

Re: Interim Charge 1 – House Committee on Land & Resource Management

Chairman Craddick and Committee Members:

Thank you for the successful adoption of HB 347, which stops forced annexation statewide, safeguards property rights, and protects property owner rights. As part of your current Interim Study Charge 1 to monitor and oversee this new law and city legal authority in the municipal extraterritorial jurisdiction (ETJ), please consider ways to provide the following:

- Ensure that the letter, intent, and spirit of the law are respected so that a city or political subdivision does not use a loophole or otherwise subvert current law.
- Provide protection so that any land development agreement between an unincorporated property owner and a city is deemed void if the city communications lack full transparency for all affected landowners or lack sufficient references to law.
- Require that any alteration or change in an ETJ boundary will trigger sufficient written notice delivered to all property owners who are newly placed into an ETJ.
- Mandate that the ability to vote on an annexation proposal cannot be waived.
- Improve the law regarding municipal authority and regulatory power in the ETJ, including the undue Local Government Code section 212.003(a) loophole language – “unless otherwise authorized by state law” – that effectively allows a city to use and exercise the full spectrum of inherent municipal power in an ETJ.
- Deliver a transparent, updated, and streamlined statutory framework providing a clear and coherent lines of governmental authority and regulatory power between counties and cities in the ETJ.

We appreciate the opportunity to submit these comments. Thank you for your collective service for Texans and for all you do for Texas.

Sincerely,

William Dever  
Kendall County, 53 Silent Spring, Boerne, Texas 78006

Denise Dever  
Kendall County, 53 Silent Spring, Boerne, Texas 78006

August 14, 2020

Re: Interim Charge 1 – House Committee on Land & Resource Management

Chairman Craddick and Committee Members:

We represent the Wise County grassroots organization that lead the Tier-2 petition and election efforts in Wise County.

Thank you for the successful adoption of HB 347, which stops forced annexation statewide, safeguards property rights, and protects property owner rights. As part of your current Interim Study Charge 1 to monitor and oversee this new law and city legal authority in the municipal extraterritorial jurisdiction (ETJ), please consider ways to provide the following:

- Ensure that the letter, intent, and spirit of the law are respected so that a city or political subdivision does not use a loophole or otherwise subvert current law.
- Provide protection so that any land development agreement between an unincorporated property owner and a city is deemed void if the city communications lack full transparency for all affected landowners or lack sufficient references to law.
- Require that any alteration or change in an ETJ boundary will trigger sufficient written notice delivered to all property owners who are newly placed into an ETJ.
- Mandate that the ability to vote on an annexation proposal cannot be waived.
- Improve the law regarding municipal authority and regulatory power in the ETJ, including the undue Local Government Code section 212.003(a) loophole language – “unless otherwise authorized by state law” – that effectively allows a city to use and exercise the full spectrum of inherent municipal power in an ETJ.
- Deliver a transparent, updated, and streamlined statutory framework providing a clear and coherent lines of governmental authority and regulatory power between counties and cities in the ETJ.

We appreciate the opportunity to submit these comments. Thank you for your collective service for Texans and for all you do for Texas.

Sincerely,

*Bryson Boyd*

President  
Wise Citizens for Property Rights, Inc.

*Wendell Wiggins*

Secretary  
Wise Citizens for Property Rights, Inc.

## **Abby L. Raines**

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**From:** Misty Ventura <misty.ventura@svlandlaw.com>  
**Sent:** Saturday, August 22, 2020 4:09 PM  
**To:** Tom Craddick  
**Subject:** Annexation Interim Charge No. 1/H.B. 347 (2019)

Dear Chairman Craddick:

Some (including the Texas Municipal League) would have us believe that H.B. 347 "eliminated unilateral annexation by any city." This is simply not true. Forced annexations and municipal abuses by certain cities continue. As a result, there is a need for further annexation legislation in Texas as well as legislation that makes more clear the limits of city authority within the ETJ. Please consider the following annexation and ETJ matters.

Respectfully,

Misty Ventura

### **Annexation Matters**

- Address annexation abuses, including exactions of "voluntary annexation" as a condition to a TLGC 43.016 agreement. Consider amending TLGC 43.016 to make clear such agreements that include "voluntary annexation" terms are void – or subject to the recent annexation protections approved in 2017 and 2019. Delete from TLGC 43.016(b)(1) the clause "under Section 212.172" to eliminate the municipal claim that forced voluntary annexation after a period of time is an allowed term in a TLGC 43.016 agreement. Add language that makes clear offering a statutorily compliant agreement is a condition precedent to a city's delegated authority to annex to avoid the conclusion in *Comanche Peak Ranch, LLC et al v. Granbury* (2020 WL 1949628) that statutorily deficient agreements are procedural defects that may be challenged only by a quo warranto.
- Address annexation abuses, including combining voluntary annexations with involuntary annexations under the petition process.
- Address annexation abuses resulting from 2019 annexation legislation (allowing annexations to proceed under pre-2109 law if the council directed preparation of service plan on or before 5/24/19) – See Terrell and Fredericksburg examples.
- Repeal TLGC Section 43.0115 – which would eliminate a city's authority to annex enclaves (areas wholly surrounded by the City) without the consent of any of the residents of, voters of, or owners of land in the area proposed for annexation.
- Repeal TLGC Section 43.0116 – which would eliminate a city's authority to annex industrial districts.
- Eliminate a city's ability to require an owner to petition for voluntary annexation before a city is willing to provide water or sewer service in the city's ETJ. Make clear that if the city is serving any user in the ETJ they are obligated to serve all users within the ETJ.
- Address contract provisions that attempt to avoid state law (e.g., No subsequent change in the law regarding annexation shall affect the enforceability of this Agreement or the City's ability to annex Property).

- Provide property owners with clear rights to disannex for failure to provide service, including private party standing (no quo warranto required even if annexed before 2017).

#### **ETJ Matters**

- Clarify subdivision regulation authority under TLGC Chapter 212 to make clear that cities must regulate subdivisions in the ETJ in the same manner as they regulate subdivisions in the corporate limits. In other words, cities should not be allowed to make ETJ platting more difficult than in-city platting by deleting preliminary plats or requiring more strict regulations in the ETJ. Certain cities are also imposing ETJ plat moratoriums (e.g., Rockwall).
- Revise TLGC Chapter 212 to make clear that if the city is going to refuse to provide water and sewer service in the ETJ they cannot then regulate water and sewer improvements.
- Revise TLGC Chapter 212 to make clear that absent a CCN, a city may not compel an ETJ subdivision to use the City's water and sewer facilities. Needed to avoid illegal exactions.
- Revise TLGC Chapter 212 and Chapter 232 to make clear that either a city or a county may regulate plats in the ETJ but not both.
- Delete TLGC 233.031(b) stating that if there is a conflict between building setback lines in the ETJ, those of the municipality prevail. Since cities have no ETJ zoning authority, this provision creates confusion.
- Limit 212 authority to true platting and subdivision issues and expressly prohibit certain authority like landscaping, screening, building design, and tree preservation regulations.
- Make clear that cities have no authority over road construction or road alignments in the ETJ unless the city will own and maintain such roads.
- Repeal municipal development plat authority in the ETJ.
- Create an expedited ETJ release process similar to the expedited CCN decertification process.

#### **Misty Ventura**

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